

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
FOR THE WESTERN DIVISION

VIVIAN BERT, et al.,

PLAINTIFFS,

Case No. 1:02CV00467

VS:

Judge Beckwith

AK STEEL CORPORATION,

DEFENDANT.

DEPOSITION OF TIMOTHY OLIPHANT

On Thursday, the 9th day of August, 2007, at the approximate hour of 1:00 p.m., at the law offices of VanAntwerp, Monge, Jones, Edwards & McCann, located at 1544 Winchester Avenue, Fifth Floor, Ashland, Kentucky, before me, Conalee Williamson, Court Reporter and Notary Public within and for the Commonwealth of Kentucky, appeared TIMOTHY OLIPHANT, Witness, who, being by me first duly sworn, gave his oral deposition in the causes pursuant to Notice of Counsel for the respective parties as hereinabove set forth. Said deposition is being taken pursuant to Rules 26 and 30 of the Federal Rules of Civil Procedure.

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<p>1 APPEARANCE: On behalf of the Plaintiffs:</p> <p>2</p> <p>3 HON. SUSAN DONAHUE</p> <p>4 Wiggins, Childs, Quinn & Pantazis</p> <p>5 The Kress Building</p> <p>6 301 Nineteenth Street North</p> <p>7 Birmingham, Alabama 35203</p> <p>8</p> <p>9 On behalf of the Defendant:</p> <p>10</p> <p>11 HON. PATRICIA ANDERSON PRYOR</p> <p>12 Taft, Stettinius & Hollister</p> <p>13 425 Walnut Street, Suite 1800</p> <p>14 Cincinnati, Ohio 45202</p> <p>15</p> <p>16 INDEX</p> <p>17</p> <p>18 EXAMINATION OF THE WITNESS:</p> <p>19 Timothy Oliphant</p> <p>20 Examination by Ms. Pryor Page 3</p> <p>21</p> <p>22 EXHIBITS:</p> <p>23 Exhibit No. 1 - Page 31</p> <p>24 Exhibit No. 2 - Page 40</p> <p>25 Exhibit No. 3 - Page 57</p> <p>26 Exhibit No. 4 - Page 94</p> <p>27</p> <p>28 Reporter's Certification - Page 103</p> <p>29 Errata Sheet - None</p> <p>30 Signature Page - Waived</p>	<p>1 or --</p> <p>2 A. (Interposing) Okay.</p> <p>3 Q. (Continuing) -- uh-huhs and huh-uhs are</p> <p>4 hard for her to take down.</p> <p>5 Is there any reason that you cannot testify</p> <p>6 truthfully and completely today?</p> <p>7 A. No.</p> <p>8 Q. Have you taken any medication or alcohol</p> <p>9 today?</p> <p>10 A. I take high blood pressure medicine but</p> <p>11 it doesn't affect this.</p> <p>12 Q. You take it every day?</p> <p>13 A. Yes.</p> <p>14 Q. You took your normal amount this morning?</p> <p>15 A. Yes.</p> <p>16 Q. Anything else that you've taken today?</p> <p>17 A. No. That's it.</p> <p>18 Q. Okay. Have you ever filed for</p> <p>19 bankruptcy?</p> <p>20 A. No.</p> <p>21 Q. Have you ever been convicted of a crime?</p> <p>22 A. Yes.</p> <p>23 Q. What was that?</p> <p>24 A. I touched someone -- I can't -- what's</p>
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<p>1 TIMOTHY OLIPHANT, called as a witness in the</p> <p>2 aforementioned action, was sworn according to law,</p> <p>3 was examined and testified as follows:</p> <p>4 EXAMINATION</p> <p>5 BY MS. PRYOR:</p> <p>6 Q. Mr. Oliphant, my name is Patty Pryor, and</p> <p>7 I represent AK Steel in a lawsuit that you filed</p> <p>8 against them.</p> <p>9 Could you state your full name for the</p> <p>10 record, please?</p> <p>11 A. Timothy Ray Oliphant.</p> <p>12 Q. And have you ever been involved in civil</p> <p>13 litigation before?</p> <p>14 A. No.</p> <p>15 Q. Have you ever testified under oath</p> <p>16 before?</p> <p>17 A. No.</p> <p>18 Q. Let me give you a few ground rules. If</p> <p>19 you don't hear a question, please ask me to repeat</p> <p>20 it. If you don't understand it, tell me, so that</p> <p>21 you're answering what I'm asking. If you need to</p> <p>22 take a break at any time, we can do that. You</p> <p>23 need to answer verbally so the court reporter</p> <p>24 can take it down. So, try not to shake your head</p>	<p>1 the word I'm looking for? Propriately, [sic],</p> <p>2 unappropriately, [sic].</p> <p>3 Q. What does that mean?</p> <p>4 A. I touched someone that was -- I should</p> <p>5 not have touched that was a younger age, under the</p> <p>6 younger age. And I was put on probation for it</p> <p>7 for five years.</p> <p>8 Q. When was that?</p> <p>9 A. It was back in ninety -- 2000 and ninety</p> <p>10 -- I mean, 1990, I mean.</p> <p>11 Q. Are you currently off probation?</p> <p>12 A. Been off it for 16, 17 years now.</p> <p>13 Q. And how old was the -- was it a female</p> <p>14 that you touched?</p> <p>15 A. Yes.</p> <p>16 Q. How old was she?</p> <p>17 A. Thirteen.</p> <p>18 Q. Were you convicted of gross sexual</p> <p>19 imposition?</p> <p>20 A. Yes.</p> <p>21 Q. And where did you touch her at?</p> <p>22 A. Behind.</p> <p>23 Q. You touched her behind?</p> <p>24 A. Yes.</p>

<p style="text-align: right;">Page 6</p> <p>1 Q. Is she a relative or --</p> <p>2 A. Yes.</p> <p>3 Q. How is she related to you?</p> <p>4 A. My daughter.</p> <p>5 Q. Were you sentenced to two years in prison</p> <p>6 and it was suspended?</p> <p>7 A. Yes.</p> <p>8 Q. Were you convicted of any other crimes?</p> <p>9 A. No.</p> <p>10 Q. Why have you filed a lawsuit against AK</p> <p>11 Steel?</p> <p>12 A. Why?</p> <p>13 Q. Uh-huh.</p> <p>14 A. I feel like that they should change the</p> <p>15 system and make it better to fit the needs of</p> <p>16 minorities.</p> <p>17 Q. Change what system?</p> <p>18 A. Well, change the testing procedures.</p> <p>19 Q. And why do you feel they should change</p> <p>20 that?</p> <p>21 A. I feel like that it -- in my opinion,</p> <p>22 it's a little bit -- has to be a little bit too</p> <p>23 hard, because we have problems passing the exam</p> <p>24 that they set before us.</p>	<p style="text-align: right;">Page 8</p> <p>1 that filed the lawsuit?</p> <p>2 A. Well, I applied for the job, and I went</p> <p>3 to Ashland. But how I got involved in this is I</p> <p>4 found out through Community Action first of all</p> <p>5 that they were doing the hiring in Portsmouth,</p> <p>6 Ohio. And I went and took the exam at the Ashland</p> <p>7 Center, because they had a job fest there. We</p> <p>8 took our resumes there to be presented to AK</p> <p>9 Steel. And at that time, they set up an</p> <p>10 appointment for us to take our exam at AK Steel.</p> <p>11 And from there, we took our test and that was it.</p> <p>12 Q. You said "we," who was "we" --</p> <p>13 A. (Interposing) Me and Dwight Lewis.</p> <p>14 Q. You went together to go apply?</p> <p>15 A. Yes, we went together to apply.</p> <p>16 Q. Did you take the test together?</p> <p>17 A. Yes.</p> <p>18 Q. Are you guys friends?</p> <p>19 A. Yes. We're pretty good friends.</p> <p>20 Q. And whose idea was it to go apply at AK,</p> <p>21 yours or his?</p> <p>22 A. His grandmother mentioned it to us when</p> <p>23 we was in church that AK Steel was hiring. And he</p> <p>24 mentioned it, in return, to me. So, we both came</p>
<p style="text-align: right;">Page 7</p> <p>1 Q. When you say "we," who is "we"?</p> <p>2 A. Minorities.</p> <p>3 Q. How many minorities do you know that has</p> <p>4 had problems passing a test?</p> <p>5 A. Me and Dwight Lewis.</p> <p>6 Q. Any others?</p> <p>7 A. That's it that I know of.</p> <p>8 Q. What are you seeking to obtain in this</p> <p>9 lawsuit?</p> <p>10 A. Explain yourself.</p> <p>11 Q. Sure. What are you asking the court to</p> <p>12 do for you? I mean, are you asking for money or</p> <p>13 are you asking for them to change the test? What</p> <p>14 do you want out of the lawsuit?</p> <p>15 A. Just to make it better. Just to make</p> <p>16 things a lot easier, not just for minorities but</p> <p>17 anybody else that is seeking employment at AK</p> <p>18 Steel.</p> <p>19 Q. So, you think AK Steel should make it</p> <p>20 easier for people to get hired on?</p> <p>21 A. I think they should make it a little bit</p> <p>22 more -- yes. I think that's the word I'm looking</p> <p>23 for, yes.</p> <p>24 Q. How did you become part of this group</p>	<p style="text-align: right;">Page 9</p> <p>1 here and brung our resumes.</p> <p>2 Q. Who is his grandmother?</p> <p>3 A. Jeanine Lewis.</p> <p>4 Q. Do you know how she knew that they were</p> <p>5 hiring?</p> <p>6 A. No.</p> <p>7 Q. And when did you decided to file a</p> <p>8 lawsuit against AK Steel?</p> <p>9 A. When I decided to file a lawsuit against</p> <p>10 them? Well, when I was there, there was a young</p> <p>11 man by the name of Mr. Cosby, who told me about AK</p> <p>12 Steel and those that applied for the job who have</p> <p>13 had problems getting a job there. And from there,</p> <p>14 that's where the lawsuit went from.</p> <p>15 Q. So, did Mr. Cosby suggest to you that</p> <p>16 you ought to get in touch with these other people</p> <p>17 or --</p> <p>18 A. He told me that there was a lawsuit being</p> <p>19 filed against AK Steel concerning minorities.</p> <p>20 Q. Did he tell you who to talk to about</p> <p>21 that?</p> <p>22 A. No. I just talked to him.</p> <p>23 Q. Okay. And then what happened?</p> <p>24 A. And he went from there.</p>

<p style="text-align: right;">Page 10</p> <p>1 Q. Is he involved in this lawsuit?</p> <p>2 A. As far as I know, he is.</p> <p>3 Q. Do you know who else is involved in this</p> <p>4 lawsuit?</p> <p>5 A. Just him and me and Dwight Lewis. That's</p> <p>6 all I know.</p> <p>7 Q. Have you had discussions with Mr. Cosby</p> <p>8 since the lawsuit was filed about --</p> <p>9 A. (Interposing) No, ma'am.</p> <p>10 Q. Have you had discussions with Dwight</p> <p>11 Lewis since the lawsuit was filed?</p> <p>12 A. The only thing that I've asked him is has</p> <p>13 he heard anything from the law firm, and he said</p> <p>14 no. That was it.</p> <p>15 Q. Prior to the lawsuit being filed, did you</p> <p>16 have any meetings with Cosby or anyone else about</p> <p>17 filing the lawsuit?</p> <p>18 A. No, ma'am.</p> <p>19 Q. Have you had any meetings with any of</p> <p>20 them since the lawsuit was filed?</p> <p>21 A. No, ma'am.</p> <p>22 Q. And I don't want to know anything you've</p> <p>23 talked about with your attorneys, but have you had</p> <p>24 any meetings with your attorneys before the</p>	<p style="text-align: right;">Page 12</p> <p>1 MS. DONAHUE: Excuse me --</p> <p>2 Q. (Interposing) Assuming it's not your</p> <p>3 attorneys.</p> <p>4 MS. DONAHUE: Unless it's your</p> <p>5 attorneys. Because your attorneys --</p> <p>6 Q. Yeah, let me rephrase the question. Have</p> <p>7 you heard anything about Al Roberts other than</p> <p>8 through your attorneys?</p> <p>9 A. No.</p> <p>10 Q. Do you understand that you are seeking to</p> <p>11 represent a class of individuals in this lawsuit?</p> <p>12 A. Yes.</p> <p>13 Q. What do you understand that your</p> <p>14 obligation is in that respect?</p> <p>15 A. To tell the truth to the best of my</p> <p>16 ability.</p> <p>17 Q. Anything else?</p> <p>18 A. And to make things better for the near</p> <p>19 future.</p> <p>20 Q. Do you know where settlement negotiations</p> <p>21 stand in this case?</p> <p>22 A. No.</p> <p>23 Q. Do you know how much your attorneys have</p> <p>24 spent in fees or expenses?</p>
<p style="text-align: right;">Page 11</p> <p>1 lawsuit was filed?</p> <p>2 A. No.</p> <p>3 Q. Have you had any meetings with them after</p> <p>4 the lawsuit was filed?</p> <p>5 A. No.</p> <p>6 Q. Are you aware of anyone who failed the</p> <p>7 test at AK Steel and was hired by AK Steel?</p> <p>8 A. No, not that I know of.</p> <p>9 Q. Other than you and Dwight Lewis --</p> <p>10 A. (Interposing) Dwight Lewis. That's the</p> <p>11 only person.</p> <p>12 Q. Are you aware of anyone who failed the</p> <p>13 test and was not hired by AK Steel?</p> <p>14 A. No.</p> <p>15 Q. Did you review the Complaint that was</p> <p>16 filed in this lawsuit?</p> <p>17 A. No.</p> <p>18 Q. Do you know who Al Roberts is?</p> <p>19 A. I've heard of that name.</p> <p>20 Q. Have you ever met him, to your knowledge?</p> <p>21 A. No.</p> <p>22 Q. What have you heard about him?</p> <p>23 A. That he's part of the lawsuit.</p> <p>24 Q. And who have you heard that from?</p>	<p style="text-align: right;">Page 13</p> <p>1 A. No.</p> <p>2 Q. Is your date of birth 9-21-56?</p> <p>3 A. Yes.</p> <p>4 Q. What's your current address?</p> <p>5 A. 2917 Bryant Avenue.</p> <p>6 Q. How long have you lived there?</p> <p>7 A. I would say five years.</p> <p>8 Q. Are you married?</p> <p>9 A. Yes.</p> <p>10 Q. What's your wife's name?</p> <p>11 A. Rosanda, R-o-s-a-n-d-a, Oliphant.</p> <p>12 Q. And how long have you been married?</p> <p>13 A. Twenty-eight years -- no. Let's go back.</p> <p>14 Twenty-six years.</p> <p>15 Q. And how many children do you have?</p> <p>16 A. Two.</p> <p>17 Q. And how old are they?</p> <p>18 A. Twenty-eight and twenty-four.</p> <p>19 Q. Was your daughter ever taken from your</p> <p>20 custody?</p> <p>21 A. No.</p> <p>22 Q. What's your educational background?</p> <p>23 A. I went to -- I graduated from high school</p> <p>24 and then I went to business college in New Boston.</p>

<p style="text-align: right;">Page 14</p> <p>1 Ohio.</p> <p>2 Q. What high school did you go to?</p> <p>3 A. Rephrase that, please.</p> <p>4 Q. What was your high school?</p> <p>5 A. Aiken High in Cincinnati.</p> <p>6 Q. What year did you graduate?</p> <p>7 A. '75.</p> <p>8 Q. Did you go there four years?</p> <p>9 A. Yes.</p> <p>10 Q. And you received a diploma from them?</p> <p>11 A. Yes.</p> <p>12 Q. And you said you went to a business</p> <p>13 college?</p> <p>14 A. Yes. Southern Ohio Business College in</p> <p>15 New Boston.</p> <p>16 Q. Did you graduate from there?</p> <p>17 A. Well, it was like a certificate for Ohio</p> <p>18 -- yes, I graduated from there.</p> <p>19 Q. What did you get a certificate in?</p> <p>20 A. It was like a police academy where you</p> <p>21 can apply for a security job or any type of law</p> <p>22 enforcement.</p> <p>23 Q. Have you applied for any of those type</p> <p>24 jobs?</p>	<p style="text-align: right;">Page 16</p> <p>1 janitorial work at elementary schools. I can't</p> <p>2 name names, but I did work there as a janitor</p> <p>3 during the summer. It was summer help.</p> <p>4 Q. Okay.</p> <p>5 A. And when I got out of high school, I</p> <p>6 worked at Burger King. Various jobs. Do you want</p> <p>7 to know all of them?</p> <p>8 Q. Let's see. Why did you leave Burger</p> <p>9 King?</p> <p>10 A. Why did I leave Burger King?</p> <p>11 Q. Uh-huh.</p> <p>12 A. I left Burger King to come to Portsmouth</p> <p>13 for a better career, better job.</p> <p>14 Q. Okay. What job did you go to then?</p> <p>15 A. I worked at Portsmouth, City of</p> <p>16 Portsmouth.</p> <p>17 Q. What year was that?</p> <p>18 A. That was in '78.</p> <p>19 Q. What did you do for the City of</p> <p>20 Portsmouth?</p> <p>21 A. I was a -- I worked on a trash truck,</p> <p>22 collecting trash.</p> <p>23 Q. How long did you do that?</p> <p>24 A. I worked there almost a year.</p>
<p style="text-align: right;">Page 15</p> <p>1 A. No.</p> <p>2 Q. Why not?</p> <p>3 A. Well, at the time, I had gotten a job in</p> <p>4 New Boston Coke Plant.</p> <p>5 Q. Did your conviction prevent you from</p> <p>6 applying for those type jobs?</p> <p>7 A. No. Because you can apply. It's up to</p> <p>8 them to take you if they want you. So, that</p> <p>9 didn't really stop me from applying, it's just at</p> <p>10 the time, I didn't because I had a job already</p> <p>11 lined up at New Boston, so I didn't apply for it.</p> <p>12 Q. How many years did you go to Southern</p> <p>13 Ohio Business College?</p> <p>14 A. It was one -- it only lasted three or</p> <p>15 four months. It wasn't really a big college.</p> <p>16 Q. Any other degrees or courses that you've</p> <p>17 had?</p> <p>18 A. No.</p> <p>19 Q. Tell me about your employment history.</p> <p>20 Where did you work after high school?</p> <p>21 A. I did summer work at the school. I did</p> <p>22 janitorial work during school.</p> <p>23 Q. What school are you talking about?</p> <p>24 A. For Aiken High School, I worked -- I did</p>	<p style="text-align: right;">Page 17</p> <p>1 Q. Almost a year?</p> <p>2 A. Yes.</p> <p>3 Q. Why did you leave that position?</p> <p>4 A. Well, I was told that there was sickness</p> <p>5 in my family in Cincinnati, so I quit and went</p> <p>6 back home.</p> <p>7 Q. Did you do anything back in Cincinnati</p> <p>8 then for employment?</p> <p>9 A. When I went back home, I was there for</p> <p>10 just a period of time, then I came back to</p> <p>11 Portsmouth. So, I didn't really do too much work</p> <p>12 there. I worked at Kenner's toy factory in</p> <p>13 Cincinnati for a while. I worked there a little</p> <p>14 bit over a year.</p> <p>15 Q. Why did you leave there?</p> <p>16 A. I got laid off.</p> <p>17 Q. Were others laid off or just you?</p> <p>18 A. Others was laid off.</p> <p>19 Q. Okay. What was your next job you held?</p> <p>20 A. I left Kenner's, came to Portsmouth, and</p> <p>21 that's when I got the job working for -- let's</p> <p>22 see, what was my job? I'm trying to get them all</p> <p>23 in line. I went to the prison. I was a guard</p> <p>24 there.</p>

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<p>1 Q. What prison was that?</p> <p>2 A. Lucasville.</p> <p>3 Q. And how long did you hold that position?</p> <p>4 A. I'm saying -- I will say three months,</p> <p>5 three or four months.</p> <p>6 Q. Why did you leave that position?</p> <p>7 A. I had trouble passing the test.</p> <p>8 Q. What test?</p> <p>9 A. The exam that you have to pass to keep</p> <p>10 your job, to know all about what's going on with</p> <p>11 the system, and I had trouble passing it.</p> <p>12 Q. Did you file a lawsuit against them?</p> <p>13 A. No.</p> <p>14 Q. Why not?</p> <p>15 A. Just at the time, I -- I just didn't.</p> <p>16 Q. Do you think there was anything</p> <p>17 discriminatory about the test?</p> <p>18 MS. DONAHUE: Object to the form.</p> <p>19 It calls for a legal conclusion.</p> <p>20 Go ahead and answer the question.</p> <p>21 A. No.</p> <p>22 Q. When did you -- I may have asked this,</p> <p>23 and I apologize if I'm repeating it. When did you</p> <p>24 go to the Southern Ohio Business College?</p>	<p>1 A. Yes.</p> <p>2 Q. And so what was your next job after</p> <p>3 Lucasville?</p> <p>4 A. New Boston Coke.</p> <p>5 Q. Okay. What did you do for them?</p> <p>6 A. I was a machine operator.</p> <p>7 Q. When did you start with them?</p> <p>8 A. In '89.</p> <p>9 Q. And how long did you work with them?</p> <p>10 A. 2002.</p> <p>11 Q. What did -- I'm sorry, you're a machine</p> <p>12 operator. Did you become a machine operator right</p> <p>13 away?</p> <p>14 A. No. I worked labor. I worked my way up</p> <p>15 to a machine operator's job.</p> <p>16 Q. How long did it take you to work labor</p> <p>17 before you got to machine operator?</p> <p>18 A. I was there two months.</p> <p>19 Q. What year did you work at Lucasville?</p> <p>20 A. Lucasville was '86.</p> <p>21 Q. Did you do anything between Lucasville</p> <p>22 and New Boston Coke?</p> <p>23 A. No.</p> <p>24 Q. So, you were off work for about three</p>
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<p>1 A. Back in 1980.</p> <p>2 Q. 1980?</p> <p>3 A. (No response).</p> <p>4 Q. So, it was after the City of Portsmouth?</p> <p>5 Before you worked at Lucasville?</p> <p>6 A. Yes, before I worked at Lucasville.</p> <p>7 Q. All right. Where did you work after</p> <p>8 Lucasville?</p> <p>9 A. Well, I have to back up, because before</p> <p>10 -- when I left Lucasville, I went to New Boston.</p> <p>11 After I left Lucasville as a guard, I worked at</p> <p>12 the railroad for six years.</p> <p>13 Q. Before or after Lucasville?</p> <p>14 A. Before Lucasville.</p> <p>15 Q. All right. What did you do for the</p> <p>16 railroad? Is that N & W Railroad?</p> <p>17 A. Yes, N & W. I was a laborer.</p> <p>18 Q. Why did you leave there?</p> <p>19 A. Better career.</p> <p>20 Q. What was the better career?</p> <p>21 A. Lucasville Prison.</p> <p>22 Q. Were you terminated from N & W Railroad?</p> <p>23 A. No. I quit.</p> <p>24 Q. Did you go straight to Lucasville?</p>	<p>1 years?</p> <p>2 A. Yeah. I was just in between jobs.</p> <p>3 Q. You didn't work anywhere during that</p> <p>4 period of time?</p> <p>5 A. No. I went to school during the period</p> <p>6 of time working for New Boston -- no, that was</p> <p>7 after New Boston. No, nowhere during that time.</p> <p>8 Q. Okay. And why did you leave New Boston?</p> <p>9 A. They shut down.</p> <p>10 Q. What month -- do you remember what month</p> <p>11 it was that they shut down?</p> <p>12 A. April.</p> <p>13 Q. What was your rate of pay at New Boston?</p> <p>14 A. 17.40 an hour.</p> <p>15 Q. Does New Boston no longer exist?</p> <p>16 A. It no longer exists.</p> <p>17 Q. And where did you go to work next?</p> <p>18 A. After New Boston, I went to Sun Coke.</p> <p>19 Q. To where?</p> <p>20 A. Sun Coke.</p> <p>21 Q. How do you spell that?</p> <p>22 A. S-u-n.</p> <p>23 Q. Just Sun?</p> <p>24 A. C-o-k-e.</p>

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<p>1 Q. Where is that at?</p> <p>2 A. That's in Franklin Furnace, Ohio.</p> <p>3 Q. How long did you work there?</p> <p>4 A. Well, can I rephrase something? Before I</p> <p>5 went to Sun Coke, I worked for Portsmouth Inner</p> <p>6 City Development. It's a little, small janitorial</p> <p>7 job.</p> <p>8 Q. So, after New Boston Coke, you went to</p> <p>9 Portsmouth Inner City Development?</p> <p>10 A. Yes.</p> <p>11 Q. And that was a janitorial job?</p> <p>12 A. Janitorial.</p> <p>13 Q. And when did you start there and when did</p> <p>14 you leave there?</p> <p>15 A. I started there after I lost my job at</p> <p>16 New Boston, which is '02. And I worked to '04.</p> <p>17 Q. Did you -- you said that New Boston shut</p> <p>18 down in April of 2002. What month did you start</p> <p>19 at Portsmouth Inner City?</p> <p>20 A. April, May, somewhere in May, June,</p> <p>21 somewhere along in there.</p> <p>22 Q. So, you were off work for about a month?</p> <p>23 A. Yes.</p> <p>24 Q. And what did you do -- you say it was</p>	<p>1 A. Yes.</p> <p>2 Q. What degree or certificate did you get?</p> <p>3 A. It was a certificate that I had completed</p> <p>4 the class.</p> <p>5 Q. Have you applied for any jobs in those</p> <p>6 areas?</p> <p>7 A. No.</p> <p>8 Q. Why not?</p> <p>9 A. Because I had gotten hired on at Sun</p> <p>10 Coke.</p> <p>11 Q. When did you start at Sun Coke?</p> <p>12 A. 2005.</p> <p>13 Q. Is that the same as Haverhill North Coke?</p> <p>14 A. Yes. Haverhill North Coke. We just call</p> <p>15 it Sun Coke.</p> <p>16 Q. Okay.</p> <p>17 A. It's short.</p> <p>18 Q. Did you get hired on there in August of</p> <p>19 2005?</p> <p>20 A. Yes.</p> <p>21 Q. Is that where you currently work?</p> <p>22 A. Yes.</p> <p>23 Q. What do you do there?</p> <p>24 A. I'm a utility person.</p>
Page 23	Page 25
<p>1 janitorial?</p> <p>2 A. Janitorial.</p> <p>3 Q. What was your rate of pay at Portsmouth</p> <p>4 Inner City?</p> <p>5 A. I was making 6.99 an hour.</p> <p>6 Q. And how many hours did you work?</p> <p>7 A. I worked three hours a day.</p> <p>8 Q. Every day or five days?</p> <p>9 A. Five days a week.</p> <p>10 Q. And you held that job from 2002 through</p> <p>11 2004?</p> <p>12 A. Yes.</p> <p>13 Q. Did you work any other job at the same</p> <p>14 time?</p> <p>15 A. That was it. I went to school at the</p> <p>16 time that I worked at Inner City Development.</p> <p>17 Q. Okay. What school did you go to?</p> <p>18 A. I went to Joint Vocational School in</p> <p>19 Lucasville.</p> <p>20 Q. What did you study there?</p> <p>21 A. They had a thing where you took heating</p> <p>22 and air and business trades like hydraulic,</p> <p>23 plumbing, things on that sort.</p> <p>24 Q. Did you get any degree or certificate?</p>	<p>1 Q. What's your rate of pay?</p> <p>2 A. I currently is making 16 -- I think 16.20</p> <p>3 an hour -- or 16.90 an hour. I take that back.</p> <p>4 Forgive me.</p> <p>5 Q. What was your starting rate of pay?</p> <p>6 A. That's what it is, 16.90 an hour.</p> <p>7 Q. You have not gotten any raises since</p> <p>8 you've been there?</p> <p>9 A. No.</p> <p>10 Q. And how many hours a week do you work?</p> <p>11 A. Forty hours a week.</p> <p>12 Q. Do you have any overtime?</p> <p>13 A. Yes.</p> <p>14 Q. How often do you have overtime?</p> <p>15 A. Every now and then, whenever they ask me</p> <p>16 to work it. I couldn't pinpoint it.</p> <p>17 Q. Do you have any benefits through them?</p> <p>18 A. Yes. We have dental, eye. We have Blue</p> <p>19 Cross Blue Shield. It's really nice benefits.</p> <p>20 Q. Do you pay for any of this?</p> <p>21 A. No.</p> <p>22 Q. Do you have any retirement plan?</p> <p>23 A. Yes.</p> <p>24 Q. Do you know what it is?</p>

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<p>1 A. Not offhand.</p> <p>2 Q. Do you pay for any of that?</p> <p>3 A. No.</p> <p>4 Q. Is that a union --</p> <p>5 A. (Interposing) Yes, it just comes -- it</p> <p>6 comes out of our check. And I think the union</p> <p>7 does what -- they do their part.</p> <p>8 Q. So, you are part of a union there?</p> <p>9 A. Yes.</p> <p>10 Q. Is Portsmouth Inner City Development, is</p> <p>11 that M & J Industries?</p> <p>12 A. That's one I forgot. That's so far</p> <p>13 etched. M & J Industries is out of Lucasville.</p> <p>14 I had that job -- I got in that job after I left</p> <p>15 Portsmouth Inner City Development. And I worked</p> <p>16 there almost two years. I was also a machine</p> <p>17 operator there.</p> <p>18 Q. I have April, 2002 to January of 2004,</p> <p>19 you worked at M & J; is that right?</p> <p>20 A. Yes.</p> <p>21 Q. That is right? Okay. So, when -- let's</p> <p>22 see. You worked at Portsmouth Inner City before</p> <p>23 M & J?</p> <p>24 A. Yes. Before M & J, then M & J, then I</p>	<p>1 that.</p> <p>2 Q. Were you ever terminated from a job?</p> <p>3 A. Lucasville.</p> <p>4 Q. Anything else?</p> <p>5 A. That's the only job that I know that I've</p> <p>6 been terminated from.</p> <p>7 Q. Have you ever been disciplined at work?</p> <p>8 A. No.</p> <p>9 Q. Never received a warning, a written</p> <p>10 warning or verbal warning?</p> <p>11 A. Yes, I have.</p> <p>12 Q. Where did you receive that at?</p> <p>13 A. New Boston Coke.</p> <p>14 Q. What was it for?</p> <p>15 A. There was a gooseneck that needed to be</p> <p>16 cleaned. It was not my responsibility but I had</p> <p>17 to clean it, and I did it to the best of my</p> <p>18 ability but I still got written up for it.</p> <p>19 Q. You got written up because it wasn't</p> <p>20 cleaned correctly or --</p> <p>21 A. (Interposing) I got written up because</p> <p>22 it was -- it was cleaned correctly but it still</p> <p>23 caused problems because the problem they thought</p> <p>24 it was at, it was in a different area. So, it was</p>
Page 27	Page 29
<p>1 worked at Sun Coke.</p> <p>2 Q. Okay. Why did you leave M & J?</p> <p>3 A. Better job.</p> <p>4 Q. What job was that?</p> <p>5 A. Sun Coke. Better pay, benefits. I was</p> <p>6 able to -- be able to move up and assume my career</p> <p>7 faster than M & J's.</p> <p>8 Q. What was your rate of pay at M & J?</p> <p>9 A. It was 6.99.</p> <p>10 (A brief interruption in the</p> <p>11 proceedings.)</p> <p>12 Q. (By Ms. Pryor) And what were your hours</p> <p>13 at M & J?</p> <p>14 A. Forty hours a week.</p> <p>15 Q. Did you do any overtime there?</p> <p>16 A. Yes, quite a bit.</p> <p>17 Q. Roughly how much overtime did you do?</p> <p>18 A. On an average, we worked three or four</p> <p>19 days of overtime.</p> <p>20 Q. A week?</p> <p>21 A. A week.</p> <p>22 Q. What were your benefits at M & J?</p> <p>23 A. You had to pay for your insurance, which</p> <p>24 I couldn't afford it, so I didn't really have</p>	<p>1 difficult to say where it was, but I was still</p> <p>2 written up for it.</p> <p>3 Q. So, what was the problem that it caused?</p> <p>4 A. It was down in the flue instead of when</p> <p>5 you open the door and you see where you had to</p> <p>6 chop a hole in it where it would breathe. And</p> <p>7 they found out later that it was in another area.</p> <p>8 And they tore the warning up after they realized</p> <p>9 it wasn't my fault.</p> <p>10 Q. So, it's no longer in your record?</p> <p>11 A. No.</p> <p>12 Q. Any other discipline that you received at</p> <p>13 work?</p> <p>14 A. That was it.</p> <p>15 Q. Have you ever been involved in an</p> <p>16 incident or an accident at work?</p> <p>17 A. No.</p> <p>18 Q. Have you ever been involved in an</p> <p>19 incident that caused damage to company property or</p> <p>20 product?</p> <p>21 A. No.</p> <p>22 Q. Have you ever had a safety infraction or</p> <p>23 violation at work?</p> <p>24 A. Well, that's the same question that you</p>

<p style="text-align: right;">Page 30</p> <p>1 asked about if anything has been -- "Have you 2 damaged anything or is anything -- have you caused 3 any problems there," right? 4 Q. I think it's a little bit different, but, 5 I mean, it's essentially have you done anything 6 that was against any safety policy? 7 A. No. 8 Q. When did you receive unemployment? 9 A. After I had left -- after New Boston shut 10 down. 11 Q. And how long did you receive it? 12 A. A year. 13 Q. Were you receiving it while you were 14 employed by Portsmouth Inner City Development? 15 A. Yes. 16 Q. Were you receiving it while you were 17 employed by M & J? 18 A. No. 19 Q. Was the Unemployment Commission aware 20 that you were working at Portsmouth Inner City 21 Development? 22 A. Yes. 23 MS. PRYOR: Mark that as Exhibit 1. 24 (Exhibit No. 1 was marked for</p>	<p style="text-align: right;">Page 32</p> <p>1 Q. So, there was not a break in employment 2 between M & J Industries and Sun Coke? 3 A. No. 4 Q. Okay. So, you worked there from January 5 2004 through August 2005? 6 A. Yes. 7 Q. Okay. And you're missing the 8 professional -- is it Portsmouth Inner City 9 Development on this answer? 10 A. Yes. 11 Q. Your rates of pay on this document, are 12 they correct? 13 MS. DONAHUE: Look at all of it 14 before you answer. 15 A. Yes, basically. 16 Q. What does "basically" mean? 17 A. \$17 an hour, 16.90 is basically \$17 an 18 hour. So, yes. 19 Q. Well, the other ones, are they exact or 20 are they approximations? 21 A. Yes, they are exact. 22 Q. Okay. Earlier you told me that you got 23 6.99 from M & J. Is that not correct? 24 A. Yes, 6.99. I started out -- it ended --</p>
<p style="text-align: right;">Page 31</p> <p>1 identification and attached hereto.) 2 Q. (By Ms. Pryor) I'm handing you what's 3 been marked as Exhibit 1. Have you seen this 4 document before? 5 A. Yes. 6 Q. Is that your signature on the very last 7 page? 8 A. What very last page? 9 Q. (Indicating last page of document.) 10 A. Yes. 11 Q. You are certifying that the answers are 12 true and complete, to the best of your knowledge? 13 A. Yes. 14 Q. Did you answer the questions honestly? 15 A. Yes. 16 Q. And on Page 5, the answer on that page, 17 you have listed M & J Industries as working there 18 from April of 2002 through January of 2004. Is 19 that correct? 20 A. As far as I know. 21 Q. What are the correct dates? 22 A. Let's see, I left Inner City Development 23 in 2004. So, I got hired on there in 2004 and 24 worked until I went to Sun Coke.</p>	<p style="text-align: right;">Page 33</p> <p>1 my correct thing is that when I got hired on at 2 M & J, I went through a job thing. And when they 3 hired me through the job thing, my rate of pay was 4 7.35 an hour. I worked through that. After I got 5 my probation time in, they cut it off. M & J took 6 it over, and I went from 7.35 to seven -- to \$8.00 7 an hour. The department I worked in, I stayed 8 there, working that much money, until I bid out of 9 the department. And I went from there to 6.99 an 10 hour. I dropped a scale instead of going up. 11 Q. Why did you do that? 12 A. The department, that's the way their 13 system was set up, where, instead of you making 14 money, you lose and you have to start back up the 15 scale again. 16 Q. Why did you switch departments? Was that 17 your choice or theirs? 18 A. My choice, because I thought it would be 19 a better pay rate and a better job. And it was a 20 better job but it was a poor pay rate. 21 Q. Did you go back up to 8.35? 22 A. Yeah, I went back up to 8.35 and that's 23 where I stayed. 24 Q. How long were you working at the 6.99</p>

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<p>1 part of it?</p> <p>2 A. Six months, for 6.99.</p> <p>3 Q. And then did you go right up to 8.35 or</p> <p>4 did you go up to another --</p> <p>5 A. It took me a while to go up to 6.99 to</p> <p>6 8.35. It took me three months to go there. After</p> <p>7 I went from one department to the next, I was in</p> <p>8 the door shop department. I left the door shop</p> <p>9 department and I went to press. And when I went</p> <p>10 to press, that's when I -- it went from eight to</p> <p>11 6.99. And it took me three months to go back up</p> <p>12 to 8.35.</p> <p>13 Q. Now, you said that you got on -- you got</p> <p>14 hired on. Did you work for a temporary service</p> <p>15 first?</p> <p>16 A. Yes.</p> <p>17 Q. How long did you work for -- I think you</p> <p>18 told me that started here in January of 2004?</p> <p>19 A. Yes.</p> <p>20 Q. How long were you working for the temp</p> <p>21 service?</p> <p>22 A. Six months.</p> <p>23 Q. So, until what, June, July of 2004?</p> <p>24 A. Yes.</p>	<p>1 Q. How long were you paid at the rate of</p> <p>2 7.35?</p> <p>3 A. Three months.</p> <p>4 Q. Three months? Okay. And what happened</p> <p>5 at three months?</p> <p>6 A. I went from door shop to press. And when</p> <p>7 I went to press, my rate of pay dropped from 7.35</p> <p>8 to 6.99.</p> <p>9 Q. And how long was it 6.99 then?</p> <p>10 A. It was two and a half months.</p> <p>11 Q. So, we're looking at what, close to the</p> <p>12 end of 2004?</p> <p>13 A. Yes.</p> <p>14 Q. And what rate did it change to then?</p> <p>15 A. It went to 7.35 again.</p> <p>16 Q. Okay. And how long was it that?</p> <p>17 A. It stayed there for two months.</p> <p>18 Q. Okay. And then what did it change to?</p> <p>19 A. It went to 8.15.</p> <p>20 Q. Okay. And how long was it at 8.15?</p> <p>21 A. Another month.</p> <p>22 Q. Then what did it change to?</p> <p>23 A. Then it went to 8.35.</p> <p>24 Q. And it was 8.35 for the rest --</p>
Page 35	Page 37
<p>1 Q. Okay. And then --</p> <p>2 A. (Interposing) Then they took over, after</p> <p>3 you got into the union, M & J's union, the</p> <p>4 temporary service cut you off and you belong to</p> <p>5 M & J. And from there, they took over the rate of</p> <p>6 pay.</p> <p>7 Q. Okay. Let's kind of do it one step at a</p> <p>8 time, just so I'm clear. While you were working</p> <p>9 for the temporary service, what was the name of</p> <p>10 the temporary service?</p> <p>11 A. It was called the Network.</p> <p>12 Q. While you were working for them, what was</p> <p>13 your rate of pay?</p> <p>14 A. It was 7.35 an hour.</p> <p>15 Q. When you got switched over to M & J</p> <p>16 Industries, what was your rate of pay initially?</p> <p>17 A. It was still -- it was still 7.35 an</p> <p>18 hour, after I got switched over from them.</p> <p>19 Q. Okay.</p> <p>20 A. The only way it changed is when I went</p> <p>21 from one department to the next.</p> <p>22 Q. So, roughly, June, July, 2004, you</p> <p>23 switched over and became an M & J employee?</p> <p>24 A. Yes.</p>	<p>1 A. (Interposing) Until I left.</p> <p>2 Q. Until August. Okay. If you'll turn to</p> <p>3 Page 6 of Exhibit No. 1. Interrogatory No. 3,</p> <p>4 which starts on the bottom of Page 5. It asks you</p> <p>5 to identify all employers to whom you've applied</p> <p>6 for employment since January 1, 2001. And you</p> <p>7 have listed AK Steel. You've listed K-Mart,</p> <p>8 Kroger, City of Portsmouth and Portsmouth Inner</p> <p>9 City Development. Why were you applying at K-Mart</p> <p>10 to be a stock boy?</p> <p>11 A. Yes.</p> <p>12 Q. Why?</p> <p>13 A. Well, I needed work. I needed</p> <p>14 employment. So, I -- I had to find a job</p> <p>15 somewhere, so I applied there.</p> <p>16 Q. Did you get an offer?</p> <p>17 A. No.</p> <p>18 Q. What about Kroger, did you get an offer</p> <p>19 with them?</p> <p>20 A. Yes.</p> <p>21 Q. Why didn't you take it?</p> <p>22 A. Well, it was a problem with my</p> <p>23 application. I failed to put my background on it,</p> <p>24 not intentionally, just failed to do it, and it</p>

<p style="text-align: right;">Page 38</p> <p>1 came back on me. And from there, I couldn't -- 2 they didn't want me. 3 Q. What do you mean by your background? 4 A. What I told you in the beginning of the 5 conversation, when you asked me have I ever been 6 in trouble. 7 Q. Your criminal record? 8 A. Yes. 9 Q. Do they ask you to identify if you've had 10 a criminal record? 11 A. It tells you on your application -- and I 12 was excited at the time, filling out the 13 application, that I failed to put that, like I 14 said, not on purpose, because I had nothing to 15 hide. And by that, they didn't take my 16 application, even after I went back and apologized 17 and told them that I did not mean to do that. It 18 still wasn't -- 19 Q. Have you failed to put it on other 20 applications? 21 A. No. 22 Q. You've listed it with all your other 23 employers? 24 A. Yes.</p>	<p style="text-align: right;">Page 40</p> <p>1 March-April, 2002, time frame? 2 A. Yes. 3 Q. And you only got hired at one of them? 4 A. Yes. 5 MS. PRYOR: Let's mark this as 6 Exhibit 2. 7 (Exhibit No. 2 was marked for 8 identification and attached hereto.) 9 Q. (By Ms. Pryor) You've been handed what's 10 been marked as Exhibit 2? 11 A. Uh-huh. 12 Q. Do you recognize this document? 13 MS. DONAHUE: Look at all of it. 14 A. Yes. 15 Q. What is the document? 16 A. It's a lawsuit concerning AK Steel. 17 Q. Is that your signature at the bottom of 18 Page 1? 19 A. Yes. 20 Q. And is that your signature on the very 21 last page? 22 A. Yes. 23 Q. And did you review this document before 24 it was filed?</p>
<p style="text-align: right;">Page 39</p> <p>1 Q. How about the City of Portsmouth? 2 A. Yes. 3 Q. Did you get an offer there? 4 A. No. 5 Q. Do you know why? 6 A. I didn't know why and never really went 7 and asked. 8 Q. Why didn't you go and ask? 9 A. Because I was still looking for jobs and 10 I didn't really feel the need at the time to ask. 11 Q. And then it's got listed Portsmouth Inner 12 City Development. You applied there in April of 13 2002 and January of 2004? 14 A. Yes. 15 Q. Why did you apply there twice? 16 A. That might be a misprint, because I've 17 only applied once. 18 Q. Was that in April of 2002 that you 19 applied there? 20 A. Yes. 21 Q. And you did get hired on there? 22 A. Yes. 23 Q. It looks like you applied to one, two, 24 three, four, five places, roughly, in the</p>	<p style="text-align: right;">Page 41</p> <p>1 A. Yes, I did. 2 Q. Is this the only time you've ever filed a 3 charge like this? 4 A. Yes. 5 Q. Is everything in that accurate and true? 6 MS. DONAHUE: Before you answer, 7 read through it. 8 THE WITNESS: I understand. 9 Q. (By Ms. Pryor) Everything on it is true 10 and correct? 11 A. Yes. 12 Q. To your knowledge, have you ever received 13 a Notice of Right to Sue from the EEOC? 14 A. To my knowledge? 15 Q. (Nods head up and down.) 16 A. No. 17 Q. What has Rodney Cosby told you about the 18 claim against AK Steel? 19 A. Just that there were minorities who have 20 applied and have failed the test and there was a 21 suit against them, and that's it. 22 Q. That's it? Do you know, is he employed 23 by AK Steel? 24 A. No, I don't.</p>

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<p>1 Q. You don't know?</p> <p>2 A. No.</p> <p>3 Q. How many times have you applied at AK</p> <p>4 Steel?</p> <p>5 A. Once.</p> <p>6 Q. In this charge, Exhibit No. 2, you state</p> <p>7 that you applied in April of 2002. And in Exhibit</p> <p>8 No. 1, you stated that you applied in March of</p> <p>9 2002. Do you know which one is correct?</p> <p>10 A. Where, for AK Steel?</p> <p>11 Q. Yeah, which time did you apply? You</p> <p>12 applied in March or did you apply in April?</p> <p>13 A. Well, I applied in April at Inner City</p> <p>14 Development. But in March, it's possible that I</p> <p>15 might have applied for AK Steel. It's been a</p> <p>16 while ago. But it's possible that I applied in</p> <p>17 April, to think about it, because that's when New</p> <p>18 Boston shut down. So, I would go with April.</p> <p>19 Q. When you completed the interrogatories,</p> <p>20 Exhibit No. 1, did you look at any documents or</p> <p>21 records?</p> <p>22 MS. DONAHUE: She's talking about</p> <p>23 this, (indicating).</p> <p>24 A. Did I look at this?</p>	<p>1 Q. Do you have W-2s, do you keep those?</p> <p>2 A. Yes.</p> <p>3 Q. How far back do you have those?</p> <p>4 A. About 2002, 2003 and 2004.</p> <p>5 MS. PRYOR: Susan, we will again</p> <p>6 request that these documents be actually</p> <p>7 produced to us.</p> <p>8 MS. DONAHUE: Okay.</p> <p>9 MS. PRYOR: I think we asked</p> <p>10 that those be produced prior to his</p> <p>11 deposition.</p> <p>12 MS. DONAHUE: Yeah, I'm sorry.</p> <p>13 I just wasn't involved in that process.</p> <p>14 MS. PRYOR: I asked you to</p> <p>15 produce them to me.</p> <p>16 MS. DONAHUE: Well, I thought</p> <p>17 that they had been produced, actually.</p> <p>18 THE WITNESS: Yes, they have</p> <p>19 been, because I have sent them.</p> <p>20 MS. PRYOR: You haven't sent</p> <p>21 -- you sent them to me?</p> <p>22 MS. DONAHUE: He sent them to</p> <p>23 us.</p> <p>24 THE WITNESS: I sent them --</p>
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<p>1 Q. When you completed Exhibit No. 1, when</p> <p>2 you answered the questions in Exhibit No. 1.</p> <p>3 Well, let me ask this: Were you the one that</p> <p>4 answered the questions in Exhibit No. 1?</p> <p>5 A. Yes.</p> <p>6 Q. Did you look at any documents to help you</p> <p>7 answer those questions?</p> <p>8 A. No.</p> <p>9 Q. Was it all from memory?</p> <p>10 A. Yes.</p> <p>11 Q. Do you have any documents that would help</p> <p>12 you answer questions in Exhibit No. 1?</p> <p>13 A. No.</p> <p>14 Q. Do you have any payroll stubs?</p> <p>15 A. From where?</p> <p>16 Q. From any of your past employers.</p> <p>17 A. Yeah. AK Steel -- not AK Steel but</p> <p>18 M & J's, maybe a few from Inner City Development,</p> <p>19 none from the prison that I can remember. Just a</p> <p>20 few, not many.</p> <p>21 Q. Have any of your tax returns?</p> <p>22 A. Yes.</p> <p>23 Q. How far back do you have tax returns?</p> <p>24 A. 2002, 2003.</p>	<p>1 MS. PRYOR: They haven't been</p> <p>2 sent to me.</p> <p>3 MS. DONAHUE: I'm sorry. I</p> <p>4 was relying on our staff to have done</p> <p>5 that. I apologize, Patty. That was</p> <p>6 just a complete oversight. I guess I've</p> <p>7 been told that they had; otherwise, I --</p> <p>8 I'll check, though, and send them to</p> <p>9 you.</p> <p>10 Q. (By Ms. Pryor) I think earlier you</p> <p>11 testified that you found out that AK was hiring</p> <p>12 through Dwight Lewis' grandmother.</p> <p>13 A. Yes.</p> <p>14 Q. Did anyone tell you to go apply at AK</p> <p>15 Steel?</p> <p>16 A. She encouraged us to go apply at AK</p> <p>17 Steel.</p> <p>18 Q. I may have asked you this earlier, but do</p> <p>19 you know whether she actually worked at AK Steel?</p> <p>20 A. No.</p> <p>21 Q. You don't know or she did not?</p> <p>22 A. I doubt it.</p> <p>23 Q. Okay. And so how did you go apply?</p> <p>24 A. I presented my resume. There was a job</p>

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1 fair going on at Ashland Center, in Ashland. And
2 we, me and Mr. Lewis, went there to apply with our
3 resume, and that's when we met Mr. Cosby.

4 Q. Did you give them the resume at that time
5 or did you send it to them later?

6 A. We presented it to him and he, in return,
7 presented it to AK Steel, whoever was over it.
8 Because they were part of the job fair.

9 Q. Do you know who the other person was that
10 was with them?

11 A. No.

12 Q. In your Exhibit No. 2, you state that
13 Susan Lester was there. Do you know who Susan
14 Lester is?

15 A. She was at the AK Steel facility, that we
16 met when she gave us the test. I don't remember
17 her being there. Now, she might have been there
18 but I don't remember her being there.

19 Q. You don't remember her being at the job
20 fair?

21 A. No. She might have been but I don't
22 remember.

23 Q. So, do you remember anyone besides
24 Mr. Cosby being at the job fair?

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1 A. Just someone from AK Steel. He was a man
2 in his forties, maybe late forties, somewhere in
3 there. He was over the job fair concerning AK
4 Steel.

5 Q. How do you know he was with AK Steel?

6 A. He presented his-self and stated that he
7 was from AK Steel.

8 Q. Was he a white gentleman, a --

9 A. (Interposing) Yes.

10 Q. You don't know what his name was?

11 A. No.

12 Q. And you gave the resume to Mr. Cosby at
13 that time?

14 A. Yes.

15 Q. And he, then, gave it to the other guy?

16 A. Yes. He gave it to the guy that was over
17 AK Steel that was doing the job fair.

18 Q. Did you then fax him a copy of your
19 resume as well?

20 A. Might have.

21 Q. Why would you have done that?

22 A. Well, he wanted a copy of it to see what
23 my resume looked like because he never really went
24 through the resume. I just handed it to him, and

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1 he gave it to the guy at AK Steel. He never
2 looked over it.

3 Q. On your charge, you state that you faxed
4 the resume to Mr. Cosby. You don't mention that
5 you gave it to him at the actual job fair.

6 A. Well, I was at the job fair and I saw him
7 hand it to the guy at the job fair. Now, I did
8 fax him a resume but I did give him that.

9 Q. So, you gave it to him and faxed it to
10 him later?

11 A. Yes. Because he wanted a copy of my
12 resume.

13 Q. Why didn't --

14 A. (Interposing) To see what my
15 qualifications was and what job I was applying
16 for.

17 Q. When did he tell you that he wanted to be
18 faxed another copy?

19 A. The same day that we went to the job
20 fair, in April.

21 Q. Why didn't he just look at the one that
22 he just handed to the other gentleman?

23 A. I couldn't tell you that, why he didn't
24 look at it.

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1 Q. You didn't think that was odd?

2 A. Well, at the time, the guy that was
3 wanting to look at the resume was standing right
4 there from AK Steel, and he was the one that
5 looked at the resume.

6 Q. And at that time, Mr. Cosby said, "Fax me
7 a copy so I can look at your resume"?

8 A. Yes.

9 Q. Okay. In your charge, you say that Susan
10 Lester gave you her business card and told you to
11 call her.

12 A. Yes.

13 Q. Did that occur?

14 A. She wanted -- she told us to call her,
15 because we wanted to know our test results. And
16 she said give her a few days to get them all
17 together and she would tell us what they were.
18 We called. She said that we failed it.

19 Q. Okay. And I'm just reading through the
20 charges in Exhibit 2, and it says that at the job
21 fair, Ms. Lester gave you her business card and
22 told you that you could call her to schedule a
23 time to sit through the exam. Did that happen?

24 A. Yes.

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<p>1 Q. So, was she at the job fair?</p> <p>2 A. Yes.</p> <p>3 Q. And she gave you a card and said, "Call</p> <p>4 me and schedule a time to sit for our exam"?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. And she, obviously, knew your race</p> <p>7 when she asked you to come and apply, correct?</p> <p>8 A. Yes.</p> <p>9 Q. Was any part of the application process</p> <p>10 hostile?</p> <p>11 A. No.</p> <p>12 Q. So, did you then call Ms. Lester?</p> <p>13 A. I called her after I took the test.</p> <p>14 Q. You didn't call her before that to</p> <p>15 schedule a time for the test?</p> <p>16 A. I'm thinking she called me. Like I said,</p> <p>17 it's been time that has been overlapped, so I</p> <p>18 don't remember exactly what took place at the</p> <p>19 time, because after the test was taken and I</p> <p>20 failed it, I just forgot all about the AK Steel.</p> <p>21 Q. So, she may have actually not only told</p> <p>22 you, "Hey, call me and come take the test," but</p> <p>23 she may have actually then called you back and</p> <p>24 said, "Don't you want to come in and take the</p>	<p>1 A. Well, I don't know why. I really -- I</p> <p>2 can't answer that.</p> <p>3 Q. But you saw other people had stopped in</p> <p>4 to do that?</p> <p>5 A. I think that's what it is. I'm not even</p> <p>6 for certain that's what it was. That might be a</p> <p>7 part of the test, because there were papers that</p> <p>8 were put on the table. So, I wouldn't really go</p> <p>9 there and say there was an application.</p> <p>10 Q. Okay. But people were filling out</p> <p>11 something --</p> <p>12 A. (Interposing) Yes.</p> <p>13 Q. (Continuing) -- that you hadn't filled</p> <p>14 out?</p> <p>15 A. We was all filling out papers. So, to be</p> <p>16 clear, I'll say it was, you know, the exam. It</p> <p>17 was not an application.</p> <p>18 Q. Okay. You never filled out an AK Steel</p> <p>19 application, correct?</p> <p>20 A. No.</p> <p>21 Q. Where did you take the exam at?</p> <p>22 A. AK Steel.</p> <p>23 Q. How many people were there taking the</p> <p>24 test?</p>
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<p>1 test"?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. And you did go in and take the</p> <p>4 test?</p> <p>5 A. I took the test at the time that she set</p> <p>6 it up. And we took it. Some filled out</p> <p>7 applications after they took the test. I just</p> <p>8 took the test.</p> <p>9 Q. What do you mean, "Some filled out an</p> <p>10 application after they took the test"?</p> <p>11 A. There were applications that were filled</p> <p>12 out at the time.</p> <p>13 Q. After they took the test, people would</p> <p>14 stop and fill out an application?</p> <p>15 A. I guess. I think that's what it is. I'm</p> <p>16 not for sure, I'm really not --</p> <p>17 Q. (Interposing) Did you stop -- why didn't</p> <p>18 you stop and fill out an application?</p> <p>19 MS. DONAHUE: You're starting to</p> <p>20 interrupt each other. And just kind of</p> <p>21 pause and let -- it's getting a little</p> <p>22 hard.</p> <p>23 Q. (By Ms. Pryor) Why didn't you fill out</p> <p>24 the application after you took the test?</p>	<p>1 A. Thirteen people. This sounds -- it</p> <p>2 looked like about 13 people were there.</p> <p>3 Q. Did you know any of them besides Dwight</p> <p>4 Lewis?</p> <p>5 A. No.</p> <p>6 Q. And was Dwight Lewis one of the ones</p> <p>7 taking --</p> <p>8 A. (Interposing) Yes.</p> <p>9 Q. How many others were African-American?</p> <p>10 A. I'd say all except -- I'd say all of them</p> <p>11 was.</p> <p>12 Q. All of them were African-American?</p> <p>13 A. All of them.</p> <p>14 Q. Do you know whether any of those passed</p> <p>15 the test?</p> <p>16 A. I don't know.</p> <p>17 Q. And you said that you called Ms. Lester a</p> <p>18 couple of days later to ask about the results?</p> <p>19 A. Yes.</p> <p>20 Q. And what did she tell you?</p> <p>21 A. She said that I didn't pass it.</p> <p>22 Q. Did she tell you anything else?</p> <p>23 A. That's it.</p> <p>24 Q. Did she tell you anything at the job fair</p>

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<p>1 other than, you know, "Call me to take your test"?</p> <p>2 A. She told me at the job fair that, "I will</p> <p>3 set up an appointment for you to take the exam."</p> <p>4 And she called and said that the exam is at a</p> <p>5 certain date. We went, took the test, and that</p> <p>6 was it.</p> <p>7 Q. Did you tell Susan Lester or Rodney Cosby</p> <p>8 or whoever the other gentleman was about your</p> <p>9 criminal record?</p> <p>10 A. At that time?</p> <p>11 Q. Uh-huh.</p> <p>12 A. No.</p> <p>13 Q. Have you ever told them about that?</p> <p>14 A. No. I put it on my application and</p> <p>15 resume.</p> <p>16 Q. What application -- I thought you said</p> <p>17 you didn't --</p> <p>18 A. (Interposing) No. It would be my</p> <p>19 resume. I put it on my resume.</p> <p>20 Q. Okay.</p> <p>21 MS. DONAHUE: I don't mean to</p> <p>22 interrupt, but I did look into our copy</p> <p>23 of his interrogatories, and there was a</p> <p>24 tax record attached. So, I think that's</p>	<p>1 this is all you needed; that -- because</p> <p>2 if you want to go back 2003, 2004, my</p> <p>3 mind wasn't really nowhere near applying</p> <p>4 for AK Steel at the time, because I was</p> <p>5 working. The only time that I applied</p> <p>6 for AK Steel is because my job had</p> <p>7 expired from the New Boston Sun Coke --</p> <p>8 I mean, New Boston Coke Plant. And I</p> <p>9 needed a job after I had left the job I</p> <p>10 was working with M & J's, and I was</p> <p>11 working with other jobs that I</p> <p>12 mentioned. I just -- what I'm trying to</p> <p>13 say is, I need an understanding of why</p> <p>14 you need my other W-2 forms.</p> <p>15 Q. (By Ms. Pryor) Do you have any intention</p> <p>16 of working for AK Steel at this time?</p> <p>17 A. Not that I know of.</p> <p>18 Q. Okay.</p> <p>19 MS. PRYOR: I do need -- I would</p> <p>20 like, as my request was made back in</p> <p>21 November, I think, 2002, all of his tax</p> <p>22 records, all of his W-2s and all of his</p> <p>23 pay stubs that he has since whatever</p> <p>24 that date was that we asked for in those</p>
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<p>1 why I assumed --</p> <p>2 MS. PRYOR: (Interposing)</p> <p>3 That's one document, and he testified to</p> <p>4 several.</p> <p>5 MS. DONAHUE: Yes, I realize</p> <p>6 that, but my confusion is that I'm not</p> <p>7 certain -- I was assuming that you had</p> <p>8 received this, and this is all that he</p> <p>9 produced to us, since I was relying on</p> <p>10 this file. But you're telling me that</p> <p>11 you didn't receive this?</p> <p>12 MS. PRYOR: No, I received a</p> <p>13 single document.</p> <p>14 MS. DONAHUE: Okay. Fine.</p> <p>15 MS. PRYOR: But what I'm</p> <p>16 telling you is he has testified that</p> <p>17 there are plenty more. And what I'm</p> <p>18 asking for is complete records.</p> <p>19 MS. DONAHUE: All right. I</p> <p>20 didn't -- okay. I just wanted to make</p> <p>21 sure that you have this one.</p> <p>22 THE WITNESS: Excuse me, what</p> <p>23 I want to know is, since I gave her this</p> <p>24 copy, I was under consumption -- or that</p>	<p>1 requests.</p> <p>2 Let's mark this as Exhibit 3.</p> <p>3 (Exhibit No. 3 was marked for</p> <p>4 identification and attached hereto.)</p> <p>5 Q. (By Ms. Pryor) I'm handing you what has</p> <p>6 been marked as Exhibit 3. Is there a handwriting</p> <p>7 on the first page? I mean like the date that's</p> <p>8 filled in, the "To: Rodney Cosby" and the "From"?</p> <p>9 A. Yes.</p> <p>10 Q. Is this a copy of the resume that you</p> <p>11 faxed to Mr. Cosby?</p> <p>12 A. Yes.</p> <p>13 Q. And the resume that's attached, is that</p> <p>14 the same resume or a copy of the same resume that</p> <p>15 you handed to him at the job fair?</p> <p>16 A. Yes.</p> <p>17 Q. And why is it coming from H & R Block?</p> <p>18 A. Why is it coming from H & R Block?</p> <p>19 Q. Uh-huh. It's a fax cover sheet of H & R</p> <p>20 Block.</p> <p>21 A. Well, my wife worked for H & R Block at</p> <p>22 one time.</p> <p>23 Q. Okay.</p> <p>24 A. So, that's why it's coming from there.</p>

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<p>1 Q. Okay. Did your wife actually send the</p> <p>2 fax, then?</p> <p>3 A. Yes.</p> <p>4 Q. Did you take the AK Steel test roughly</p> <p>5 May 9th, 2002? Does that sound right?</p> <p>6 A. Yes.</p> <p>7 Q. And how many days -- this fax is dated</p> <p>8 April 23rd, 2002. How many days prior had it been</p> <p>9 that you were at the job fair? Was it a couple of</p> <p>10 days before, day before, same day?</p> <p>11 A. Explain yourself.</p> <p>12 Q. I'm trying to figure out -- it seems like</p> <p>13 you sent a fax on April 23rd. I'm trying to</p> <p>14 figure out, when was the job fair?</p> <p>15 A. The job fair was before I sent this fax.</p> <p>16 Q. How many days before was it?</p> <p>17 A. Three, four days.</p> <p>18 Q. And had Mr. Cosby contacted you in</p> <p>19 between that time at all?</p> <p>20 A. No.</p> <p>21 Q. Had Susan Lester contacted you between</p> <p>22 that time?</p> <p>23 A. No. The only time she contacted me is to</p> <p>24 let me know when I should come and take the exam.</p>	<p>1 Q. And on here, it looks like you went to</p> <p>2 the business college in 1989; is that correct?</p> <p>3 A. Yes.</p> <p>4 Q. And that's the college you talked about</p> <p>5 earlier?</p> <p>6 A. Yes.</p> <p>7 Q. On your resume, you say that you worked</p> <p>8 at New Boston Coke from 1986 to 2002. Earlier you</p> <p>9 testified it was 1989. Do you know which one it</p> <p>10 was?</p> <p>11 A. Okay. I was hired in in '89 and worked</p> <p>12 until 2002.</p> <p>13 Q. Okay. So, this was a misprint on your</p> <p>14 resume?</p> <p>15 A. Yes.</p> <p>16 Q. By using the date 1986, it looks like</p> <p>17 there's no gap in employment there, correct?</p> <p>18 A. Yes.</p> <p>19 Q. Who is Earl Stephens?</p> <p>20 A. Earl Stephens?</p> <p>21 Q. It's listed on the last page as a</p> <p>22 reference.</p> <p>23 A. He worked at Community Action.</p> <p>24 Q. What is Community Action?</p>
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<p>1 Q. Was that before or after you sent the</p> <p>2 resume?</p> <p>3 A. Before.</p> <p>4 Q. So, you were already scheduled to come</p> <p>5 and take the exam when you sent the resume in?</p> <p>6 A. Yes.</p> <p>7 Q. And maybe I missed it, but where on your</p> <p>8 resume do you tell them about your criminal</p> <p>9 background?</p> <p>10 A. I thought I wrote it in here but I guess</p> <p>11 I didn't. I stand corrected.</p> <p>12 Q. And under "Education," on your resume,</p> <p>13 you've got that you went to Aiken High School from</p> <p>14 1972 to 1975. That's only three years. Did you</p> <p>15 go three or did you go four years?</p> <p>16 A. Well, you go from -- three years, because</p> <p>17 I went from the 10th to the 12th grade. Because I</p> <p>18 went to the other one --</p> <p>19 Q. (Interposing) Okay. So, junior high was</p> <p>20 a separate --</p> <p>21 A. (Interposing) Yes.</p> <p>22 Q. (Continuing) -- school, and that included</p> <p>23 ninth grade?</p> <p>24 A. Yes.</p>	<p>1 A. It's a place that helps you find jobs,</p> <p>2 like a job replacement, [sic].</p> <p>3 Q. I think I misunderstood earlier. Is</p> <p>4 Community Action where you heard about the AK</p> <p>5 Steel job?</p> <p>6 A. No. I was at church when I heard about</p> <p>7 AK Steel from Dwight Lewis' grandmother.</p> <p>8 Q. Okay. Did Community Action do anything</p> <p>9 to help you get a job?</p> <p>10 A. No.</p> <p>11 Q. How did you know Earl Stephens at</p> <p>12 Community Action?</p> <p>13 A. There was a guy that worked there that's</p> <p>14 -- I don't know if he's still there or not. He's</p> <p>15 one of the office guys, and I used him as a</p> <p>16 reference. I don't even know if he's even there</p> <p>17 anymore.</p> <p>18 Q. You still use him as a reference?</p> <p>19 A. No.</p> <p>20 Q. Have you ever met him before?</p> <p>21 A. Yes. But maybe once or twice.</p> <p>22 Q. What would he be able to say on your</p> <p>23 behalf as a reference?</p> <p>24 MS. DONAHUE: Are we talking about</p>

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1 Earl Stephens or somebody else?
 2 MS. PRYOR: I'm assuming we're
 3 talking about Stephens.
 4 Q. Are we talking about Earl Stephens or
 5 someone else?
 6 **A. I think we're talking about Earl**
 7 **Stephens.**
 8 MS. DONAHUE: Okay. I'm sorry.
 9 Excuse me.
 10 Q. So, what would he be able to say on your
 11 behalf?
 12 **A. That I'm a fine person, a good worker and**
 13 **I do my job well and that I do what I need to do**
 14 **and that I am overall a productive person.**
 15 Q. How would he know that?
 16 **A. Well, he would have to know some people**
 17 **that knew me to be able to say that. Because I'll**
 18 **have to see his face to know who Stephens is**
 19 **because there's some people I know by faces and**
 20 **some people I know by names.**
 21 Q. Okay. So, you don't know whether he
 22 would be able to say that or not?
 23 **A. To be honest, no.**
 24 Q. What about Eugene Collins, who is he?

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1 **A. He knows me personally.**
 2 Q. How does he know you personally?
 3 **A. He knows my wife, he knows people that I**
 4 **have been around. I've been in Portsmouth for X**
 5 **amount of years. I worked through Community**
 6 **Action and he knows me through there and through**
 7 **job fairs, him helping me finding jobs here and**
 8 **there.**
 9 Q. What jobs has he helped you find?
 10 **A. One is the job at the Inner City**
 11 **Development job, he helped me get that, just --**
 12 **CETA, a program through CETA, and he helped me get**
 13 **a job through there. That was many years ago.**
 14 Q. What job was that?
 15 **A. That was another job that we go through**
 16 **different communities, putting houses together,**
 17 **like roofs.**
 18 Q. When did you do that?
 19 **A. Oh, this was back in '79, '80. Just jobs**
 20 **that I don't even put on my resume because they're**
 21 **so far back. But he helped me get on there, CETA.**
 22 **It's called the CETA Program.**
 23 Q. Are there any other jobs that we haven't
 24 talked about today that you've had?

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1 **A. That's it, basically.**
 2 Q. Why did you leave that program or that
 3 job?
 4 **A. Money situation. You know, they ran out**
 5 **of funds.**
 6 Q. The company did?
 7 **A. Yes. They completed the funds.**
 8 Q. Who is Pastor David Malone?
 9 **A. He was my pastor for five years.**
 10 Q. Is he still your pastor?
 11 **A. No.**
 12 Q. Why not?
 13 **A. I went to another church.**
 14 Q. And is that the church where Dwight
 15 Lewis' grandmother goes?
 16 **A. Goes to, yes.**
 17 Q. Kingdom Builders?
 18 **A. No. She goes to another church.**
 19 Q. So, it's not the same church where Dwight
 20 Lewis' grandmother went?
 21 **A. No. She visits there but she goes to**
 22 **another church.**
 23 Q. Is that the church where she told you
 24 about AK Steel hiring?

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1 **A. No. She was at our church at the time,**
 2 **Kingdom Builders, when she told us.**
 3 Q. Okay. I think that's what I was trying
 4 to ask. So, she was at Kingdom Builders, which is
 5 Pastor David Malone's church?
 6 **A. Yes.**
 7 Q. Now, what about Alan Barlow, who is he?
 8 **A. That's the gentleman that my wife used to**
 9 **work for at New Boston -- at --**
 10 Q. H & R Block?
 11 **A. At H & R Block.**
 12 Q. Is he also affiliated with the church?
 13 **A. Yes.**
 14 Q. And does he know you?
 15 **A. Yes.**
 16 Q. What does he know about you?
 17 **A. He knows me as a member of Kingdom**
 18 **Builders, singing in the choir, through my wife**
 19 **working at H & Block, just friends.**
 20 Q. Why did you not list any of your
 21 supervisors or employers --
 22 **A. (Interposing) Because I didn't know**
 23 **their names at the time or their addresses.**
 24 Q. Okay. You were not denied the right to

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1 apply at AK Steel, correct?
 2 **A. No, I wasn't denied the right to apply.**
 3 Q. All right.
 4 MS. DONAHUE: Would this be a good
 5 time to take a break?
 6 MS. PRYOR: Yeah, why don't we
 7 take a break.
 8 (A short recess was taken.)
 9 Q. (By Ms. Pryor) Going back to when you
 10 took the exam at AK Steel, did you talk to anyone
 11 that day?
 12 **A. Just Dwight, Mr. Lewis.**
 13 Q. Okay. Did you talk to anyone at AK
 14 Steel?
 15 **A. No.**
 16 Q. Did anyone at AK Steel say anything to
 17 you?
 18 **A. No.**
 19 Q. Did you think you had passed the test?
 20 **A. I thought I had a good shot at it, yes.**
 21 Q. Did you find it easy?
 22 **A. I didn't see where it was hard. Yeah, I**
 23 **found it easy.**
 24 Q. Were you ever interviewed by anyone at AK

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1 Steel?
 2 **A. No.**
 3 Q. Did Ms. Lester ever ask you questions
 4 about your background?
 5 **A. No.**
 6 Q. Did Mr. Cosby ever ask you questions
 7 about it?
 8 **A. No.**
 9 Q. Did the other gentleman who was at the
 10 job fair ask you any questions?
 11 **A. No.**
 12 Q. I apologize, I think you may have
 13 testified about this already, but it's been a long
 14 day already in this heat. When you called Susan
 15 Lester back and asked her about the results of the
 16 exam, what did she tell you?
 17 **A. She just said that, "You didn't pass it,"**
 18 **and left it at that.**
 19 Q. That was it?
 20 **A. That's exactly it.**
 21 Q. Did you tell her anything?
 22 **A. No. I just asked her did we -- "How did**
 23 **I do on the test?"**
 24 **And she said, "You failed it." And I didn't**

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1 **go from there.**
 2 Q. So, that was the end of the conversation?
 3 **A. That was it.**
 4 Q. Has Dwight Lewis told you what happened
 5 with his test?
 6 **A. He told me that he failed it.**
 7 Q. Did he tell you anything about the
 8 conversation that he had with Susan Lester?
 9 **A. No.**
 10 Q. Do you know, did Dwight Lewis also turn
 11 in a resume when you went to the job fair?
 12 **A. Yes.**
 13 Q. Do you know whether he was asked to fax a
 14 resume as well?
 15 **A. No.**
 16 Q. Was he standing there with you when you
 17 talked to Mr. Cosby?
 18 **A. Yeah. We were standing there together,**
 19 **along with the gentleman from AK Steel.**
 20 Q. Okay. That's the one you've already
 21 testified about?
 22 **A. Yes.**
 23 Q. Was Ms. Lester a part of that
 24 conversation at all?

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1 **A. Like I said, if she was there, then I**
 2 **just don't remember her being there. She might**
 3 **have been there and I don't remember it.**
 4 Q. Do you remember the conversation with her
 5 about coming in to take the test?
 6 **A. I remember her telling us that she's**
 7 **going to schedule us a test, a day to come in to**
 8 **take the exam.**
 9 Q. Was that an in-person conversation or on
 10 the phone?
 11 **A. It might be in person, but, like I said,**
 12 **I -- the only people that I can remember at the**
 13 **time was Mr. Cosby and the AK Steel man.**
 14 Q. How do you -- do you have any idea what
 15 Susan Lester looks like?
 16 **A. Not offhand, no.**
 17 Q. Why is it that you remember -- you know
 18 her name?
 19 **A. Yes, I know her by name.**
 20 Q. Why do you --
 21 **A. (Interposing) The name just was -- Mr.**
 22 **Cosby mentioned her name.**
 23 Q. What did he mention about her?
 24 **A. That he would probably -- she would**

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<p>1 probably scheduled you a time to take the exam for 2 the job.</p> <p>3 Q. After that last conversation with Ms. 4 Lester, when she told you that you did not pass 5 the test, have you had any other contact from 6 anyone at AK Steel?</p> <p>7 A. No.</p> <p>8 Q. Have you talked to Mr. Cosby since then?</p> <p>9 A. No.</p> <p>10 Q. So, he had told you about the lawsuit 11 prior to you taking the test?</p> <p>12 A. Yes.</p> <p>13 Q. Did he tell you about it prior to you 14 applying?</p> <p>15 A. No, just -- after I -- during the time I 16 was taking the test, and he asked what they said 17 concerning the results of the test. And I told 18 him that they said that I had failed it.</p> <p>19 Q. So, you did talk to him after you talked 20 to Susan Lester?</p> <p>21 A. Yes.</p> <p>22 Q. How long after?</p> <p>23 A. Basically, a few days after, just 24 briefly, that's it. That's all he asked.</p>	<p>1 A. "Okay." I mean, like I said, there was 2 so much that was going on during that time that I 3 really don't remember all that was said.</p> <p>4 Q. If you'll look at Exhibit No. 2, which is 5 your charge. It's this one here, (indicating.)</p> <p>6 A. Yes.</p> <p>7 Q. Did you draft that or did someone draft 8 that for you?</p> <p>9 A. This right here?</p> <p>10 Q. Uh-huh, Exhibit 2.</p> <p>11 A. He might have, but I'm not for sure.</p> <p>12 Q. Who might have?</p> <p>13 A. Right now, I can't say offhand how this 14 was done. All I know, I'm -- my mind wants to say 15 that -- because it's in my words, what was said 16 and what was taking place during that time. And 17 even though his name is on here, I'm inclined to 18 say that I really don't remember.</p> <p>19 Q. You don't know how Exhibit No. 2 was 20 drafted?</p> <p>21 A. No.</p> <p>22 Q. Do you remember anyone giving it to you 23 and asking you to sign it?</p> <p>24 A. I remember receiving it through the mail</p>
Page 71	Page 73
<p>1 Q. Did he contact you or did you contact 2 him?</p> <p>3 A. He may have called me, because we changed 4 -- we exchanged numbers.</p> <p>5 Q. You don't remember for sure?</p> <p>6 A. No.</p> <p>7 Q. You think it was a phone conversation?</p> <p>8 A. Yeah, it was definitely a phone 9 conversation.</p> <p>10 Q. And at this time, he asked you whether 11 you had heard about your test results?</p> <p>12 A. Yes.</p> <p>13 Q. Did he say anything about the lawsuit at 14 that time?</p> <p>15 A. No.</p> <p>16 Q. When did he tell you about the lawsuit?</p> <p>17 A. Maybe three, four weeks later.</p> <p>18 Q. Did he call you? Did you call him? How 19 did that conversation come up?</p> <p>20 A. He called and told me about it; that 21 there was a lawsuit going on concerning AK Steel.</p> <p>22 Q. What else did he tell you about it?</p> <p>23 A. That was it.</p> <p>24 Q. So, then, what did you say in response?</p>	<p>1 and I signed it and sent it back.</p> <p>2 Q. Do you know who you sent it back to?</p> <p>3 A. I sent it back to a law firm.</p> <p>4 Q. Okay. So, you had a conversation with 5 Mr. Cosby and he told you that -- is it Cosby or 6 Crosby?</p> <p>7 A. Cosby.</p> <p>8 Q. Cosby? When he told you that there was a 9 lawsuit against AK Steel, did he give you a name 10 of someone to contact?</p> <p>11 A. No.</p> <p>12 Q. How did you get in contact with someone?</p> <p>13 A. Concerning the lawsuit?</p> <p>14 Q. Yes. How did you join up with the 15 lawsuit?</p> <p>16 A. Just happened.</p> <p>17 Q. What do you mean "Just happened"?</p> <p>18 A. I just -- he talked to me about it and 19 told me what I told you concerning the lawsuit. 20 And from there, I have gotten some papers and read 21 them carefully and signed them and sent them back.</p> <p>22 Q. What papers were those?</p> <p>23 A. Papers that you see in front of me.</p> <p>24 Q. Is that Exhibit 2?</p>

<p style="text-align: right;">Page 74</p> <p>1 A. Yes.</p> <p>2 Q. And you had that from an attorney?</p> <p>3 A. Yes.</p> <p>4 Q. You did not contact the attorney, the</p> <p>5 attorney contacted you?</p> <p>6 A. They contacted me; I didn't contact no</p> <p>7 attorney.</p> <p>8 Q. Okay. Did you tell Mr. Cosby that you</p> <p>9 wanted to be a part of the lawsuit?</p> <p>10 A. Yes.</p> <p>11 Q. So, in that conversation, he said,</p> <p>12 "There's a lawsuit," and you said what?</p> <p>13 A. He asked me would I want to be involved</p> <p>14 in this lawsuit and I told him yes.</p> <p>15 Q. And what did he say?</p> <p>16 A. "Okay."</p> <p>17 Q. And that's it?</p> <p>18 A. That was it.</p> <p>19 Q. You didn't tell him anything else?</p> <p>20 A. No.</p> <p>21 Q. How long after that did you receive</p> <p>22 papers from an attorney?</p> <p>23 A. Maybe a month or two later. I don't</p> <p>24 know. I can't remember.</p>	<p style="text-align: right;">Page 76</p> <p>1 Mr. Cosby?</p> <p>2 A. No. That was it.</p> <p>3 Q. Have you had any other conversations with</p> <p>4 Susan Lester other than what you've already</p> <p>5 testified about?</p> <p>6 A. No. The last time we had conversations</p> <p>7 is on the phone, when she told me that I didn't</p> <p>8 pass the test, and that was it.</p> <p>9 Q. Have you had any conversations with the</p> <p>10 other gentleman who you claim was at the job fair?</p> <p>11 A. Mr. Donahue or the one that was at the</p> <p>12 job fair -- no, Mr. -- Dwight or the one that's</p> <p>13 over the job fair?</p> <p>14 Q. Are you talking about Mr. Lewis, Dwight</p> <p>15 Lewis?</p> <p>16 A. No. The one that was over the job fair</p> <p>17 from AK Steel, that's what you're talking about?</p> <p>18 Q. I'm talking about you mentioned -- yeah,</p> <p>19 you mentioned --</p> <p>20 A. (Interposing) No.</p> <p>21 Q. (Continuing) -- some other gentleman who</p> <p>22 was at the job fair.</p> <p>23 A. I've only seen him once, and that was at</p> <p>24 the job fair.</p>
<p style="text-align: right;">Page 75</p> <p>1 Q. Do you -- and this conversation occurred</p> <p>2 after you had took the test or before?</p> <p>3 A. After.</p> <p>4 Q. When he asked you to send you his -- fax</p> <p>5 your resume to him, was he asking that in</p> <p>6 connection with this lawsuit?</p> <p>7 A. My opinion, at the time that he wanted me</p> <p>8 to have -- fax this resume, he wanted to see what</p> <p>9 my skills was. Now, it might have been concerning</p> <p>10 the lawsuit, but my understanding, I think that he</p> <p>11 wanted it because he wanted to see what type of</p> <p>12 skills I had, as far as me applying for an AK</p> <p>13 Steel job.</p> <p>14 Q. Do you know whether he had any hiring</p> <p>15 authority for AK Steel?</p> <p>16 A. No.</p> <p>17 MS. DONAHUE: You mean you don't</p> <p>18 know or he didn't?</p> <p>19 THE WITNESS: I don't know if</p> <p>20 he had any knowledge --</p> <p>21 Q. I think you testified earlier that you</p> <p>22 don't know if he was even employed by AK Steel?</p> <p>23 A. No.</p> <p>24 Q. Have you had any other conversations with</p>	<p style="text-align: right;">Page 77</p> <p>1 Q. And did you have any conversation with</p> <p>2 him --</p> <p>3 A. (Interposing) No.</p> <p>4 Q. (Continuing) -- at the job fair?</p> <p>5 Have you had other conversations with Dwight</p> <p>6 Lewis?</p> <p>7 A. No. I don't see Dwight Lewis, except</p> <p>8 maybe I might look up and see him in passing,</p> <p>9 that's it.</p> <p>10 Q. Have you had any conversations with</p> <p>11 Dwight Lewis about the lawsuit?</p> <p>12 A. No, other than I asked him, "Have you</p> <p>13 heard anything?" That was it.</p> <p>14 Q. When was that?</p> <p>15 A. Two months ago.</p> <p>16 Q. What did he say?</p> <p>17 A. "No. I ain't heard nothing."</p> <p>18 Q. Have you -- when the lawsuit was first</p> <p>19 filed, did you and Dwight Lewis talk about it?</p> <p>20 A. No.</p> <p>21 Q. You were friends and you didn't talk</p> <p>22 about the fact that you were suing AK Steel?</p> <p>23 A. No.</p> <p>24 Q. Have you -- you testified earlier that</p>

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<p>1 you have not had any meetings with the attorneys. 2 Have you ever had any phone calls from the 3 attorneys -- and I don't want to know anything 4 that was said. But have you had any phone calls 5 from the attorneys? 6 MS. DONAHUE: You can answer, as 7 long as you don't say what the content 8 of what the conversation was. 9 A. Yes. 10 Q. How many phone calls have you had? 11 A. Several. 12 Q. How many is several? 13 A. Two, three, four. 14 Q. And who else was involved in those 15 conversations? 16 A. All of those that were involved in the 17 lawsuit. 18 Q. Was that including Mr. Cosby? 19 A. I can't say he was in it because his name 20 was never mentioned. 21 Q. Do you remember the names of the people 22 that were? 23 A. Not offhand. 24 Q. Was Dwight Lewis on those calls?</p>	<p>1 A. (Interposing) No. 2 Q. (Continuing) -- about the application? 3 A. That was it. 4 Q. Did anyone ever say why you were not 5 hired? 6 A. No, other than I didn't pass the test. 7 Q. Is that why you assume you were not 8 hired? 9 A. Yes. 10 Q. Did anyone at AK Steel ever say anything 11 to you about your race? 12 A. No. 13 Q. Did anyone at AK Steel ever say anything 14 that you believe was discriminatory? 15 MS. DONAHUE: Object to the form. 16 Calls for a legal conclusion. But go 17 ahead. 18 A. No. 19 Q. Did anyone at AK Steel ever do or say 20 anything that you thought was hostile or 21 offensive? 22 A. No. 23 Q. Did you ever hear from anyone else that 24 anyone at AK Steel did or said anything that was</p>
Page 79	Page 81
<p>1 A. Yes. 2 Q. Has anyone at AK Steel ever said anything 3 about your application? 4 A. Only the person that was at the job fair 5 did. 6 Q. What did -- 7 A. (Interposing) He said he was amazed by 8 it. He said that I had the experience to do the 9 job that I was applying for. 10 Q. Just a few minutes ago, I asked you if 11 you had any conversation with him and you said no. 12 So, you did have a conversation with him? 13 A. Briefly. 14 Q. Okay. Well, tell me the content of that 15 conversation, then. 16 A. Just -- he just looked at the resume and 17 said that it was -- he liked it. That was it. 18 Q. Okay. So, he said he liked the resume? 19 A. Yes. That was it. 20 Q. He never said anything else to you? 21 A. No. 22 Q. Did you say anything to him? 23 A. No. 24 Q. Anyone else ever say anything to you --</p>	<p>1 hostile or offensive? 2 A. No. 3 Q. Did you ever hear from anyone else that 4 anyone at AK Steel ever did or said anything that 5 was discriminatory? 6 MS. DONAHUE: Object to the form. 7 A. No. 8 Q. Did you ever hear from anyone else that 9 AK Steel ever said anything about your race or 10 someone else's race? 11 A. No. 12 Q. Did anyone at AK Steel treat you any 13 differently than white applicants? 14 MS. DONAHUE: Object to form. 15 Calls for speculation. 16 A. No. 17 Q. What evidence do you have to support your 18 claim that you were discriminated against because 19 of your race? 20 MS. DONAHUE: Object to the form. 21 A. What evidence do I have? I can't answer 22 that. 23 Q. Why can't you answer that? 24 A. Because I can't put it into words. What</p>

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1 I would probably say wouldn't make sense, so I
2 couldn't answer that.

3 Q. I don't understand your response.

4 A. You asked me what evidence I have to --
5 concerning this claim.

6 Q. Uh-huh.

7 A. And there could be many things that I
8 could say, but I'd rather not.

9 Q. Like what? That's why I'm here, so I
10 would prefer that you would say. Why do you
11 believe --

12 MS. DONAHUE: Answer to the best of
13 your ability.

14 A. Well, to apply for a job at AK Steel or
15 anybody's corporation, and to get turned down
16 because of a test, to me, and never really explain
17 why or go into detail or why the test -- you was
18 turned down or anything like that, to me, it's
19 discrimination because if you're going to give a
20 person an exam and they don't pass it, it would be
21 nice to at least tell them why they didn't pass it
22 or on what area they were weak in, instead of just
23 saying, "Well, you didn't pass it," and that's it
24 and shut the door on you. Because that's what was

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1 done to me. They just said, "You didn't pass the
2 test." The door was shut and that was it.

3 Q. Anything else?

4 A. That was it.

5 Q. Do you know whether they tell white
6 applicants anything different?

7 A. I can't answer that.

8 Q. You don't know?

9 A. I don't know.

10 Q. Okay. So, based on that alone, you
11 believe it was discrimination?

12 A. Yes.

13 Q. Okay. Did you immediately believe it was
14 discrimination or did you not believe it until Mr.
15 Cosby said there was a lawsuit?

16 A. I believed it before, because it's --
17 I've had -- it's like when you take an exam, the
18 kind they give you, they don't really give you a
19 time limit. You sit at a certain time-clock where
20 they're timing you and you cannot really take a
21 test sitting at a time and they're constantly
22 throwing papers at you, because you don't have a
23 chance to think about what you're reading. And
24 the test is taken so quick and so fast that most

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1 people would not pass it because of that.

2 Q. "Most people" being both white and
3 African-American?

4 A. They would be intimidated by that fact.

5 Q. So --

6 A. (Interposing) And I felt intimidated
7 because of the fact we didn't -- we wasn't really
8 comfortable sitting down, taking the test without
9 sweating it out, trying to think out and figuring
10 out the right questions to the right answers.

11 Q. So, did you find the test hard, then?

12 A. I found it not hard, but I found it
13 difficult because it -- you know, you are at a
14 time.

15 Q. It was time tested?

16 A. Yes.

17 Q. And it was timed for everyone, correct?

18 A. Yes.

19 Q. And there were multiple sections for it?

20 A. Yes.

21 Q. Did you complete the sections or did you
22 not complete it?

23 A. There were -- they were completed but,
24 once again, you don't -- it doesn't really give

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1 you a chance to really focus on the question as an
2 answer. And you go by whatever you think that's
3 right the first time.

4 Q. What's your understanding of
5 discrimination?

6 MS. DONAHUE: Object to form, but
7 go ahead.

8 A. There's many different meanings for
9 discrimination.

10 Q. Tell me what your belief of
11 discrimination is.

12 MS. DONAHUE: Object, but go ahead.

13 A. I can discriminate against you for you
14 eating meat in front of me and I don't eat meat.

15 Q. I'm talking about race discrimination.

16 A. Okay.

17 Q. What's your definition of what race
18 discrimination is?

19 MS. DONAHUE: Object to the form.
20 Go ahead.

21 A. If I applied for a job and you applied
22 for a job, and I had the qualifications and I had
23 more than you have, and they give you the job,
24 that's discrimination.

<p style="text-align: right;">Page 86</p> <p>1 Q. Do you know of any white applicant who 2 had less qualifications than you who was hired by 3 AK Steel? 4 A. No. 5 Q. And do you believe somehow that the test 6 that you had to take was discriminatory? 7 MS. DONAHUE: Object. Asked and 8 answered. And it's getting argumentive. 9 Q. Answer the question. 10 A. The test wasn't hard. It's just -- it 11 became difficult because you had it on a time, a 12 time. That's the only thing I'm saying. It's not 13 that it was hard at all. 14 Q. Okay. And why -- was it discriminatory 15 then or was it not discriminatory? 16 MS. DONAHUE: Object to the form. 17 Asked and answered. Calls for a legal 18 conclusion. You know, we're going to 19 have to scan this kind of questioning 20 because we've very repetitive. But try 21 to answer it. 22 Q. Do you believe the test was 23 discriminatory? 24 MS. DONAHUE: Object to the form.</p>	<p style="text-align: right;">Page 88</p> <p>1 Q. Do you -- I'm having a hard time 2 understanding, and I'm just trying to get you to 3 explain to me why the timing on a test, having a 4 timed test, why you believe that is racially 5 discriminatory? 6 MS. DONAHUE: Object to the form. 7 Q. Can you explain that? 8 MS. DONAHUE: Calls for a legal 9 conclusion. 10 A. Let's put it -- only one way I could put 11 it is, is that -- okay. I could take that test 12 and you could take that test. And even though 13 what I just said may seem so hard for you to 14 understand where I'm coming from, you could take 15 the test and pass it; I could take it and, to me, 16 seem like an easy test to pass. Same questions; 17 same answers, but I would have questions 18 concerning it because -- it's really difficult to 19 answer that question. 20 Q. Why? 21 A. It really is, to be honest. It's 22 difficult to answer that question. 23 Q. What -- I mean, is it that you can't 24 explain why it's discriminatory?</p>
<p style="text-align: right;">Page 87</p> <p>1 A. It was only that way because of the way 2 it was set up. 3 Q. And what do you mean by that? 4 A. The time. 5 Q. Okay. And why is it -- is it 6 discriminatory because of your race? 7 MS. DONAHUE: Object to the form. 8 A. I can't truly answer that. 9 Q. Why not? 10 A. Because I feel like that I gave you my 11 answer to the best of my knowledge. That's the 12 reason why I feel that the test itself was 13 designed for that purpose, for people that have 14 difficulty taking it. 15 Q. You think the test was designed to be 16 difficult? Is that what you're saying? 17 MS. DONAHUE: Object to the form. 18 Asked and answered. Argumentive. Go 19 ahead. 20 Q. Do you think that the test was designed 21 to be difficult? 22 A. Yes. 23 MS. DONAHUE: Object to the form. 24 It calls for speculation.</p>	<p style="text-align: right;">Page 89</p> <p>1 A. Well, I feel like it's -- my own opinion, 2 I feel like it was discriminatory because of all 3 the people at that time that were taking the test, 4 there was not one -- how can I say it -- white 5 person in there. 6 Q. Okay. So, you think -- 7 A. (Interposing) And when the test was 8 taken, I felt like, in my own opinion, that 9 everyone that was sitting in there did not pass 10 it. 11 Q. At the time the test was taken, you 12 thought you all were not passing? 13 A. Yes. 14 Q. So, you thought you did not pass either 15 when you were taking the test? 16 A. I know I didn't pass because she told me 17 I didn't pass it. 18 Q. I'm not asking about later. I'm saying 19 when you took the test, you just testified -- 20 A. (Interposing) I thought I passed it. 21 Q. Okay. A few minutes ago, I think you 22 testified -- and correct me if I'm wrong -- that 23 when you were sitting there taking the test, 24 looking around at everyone taking it, you thought</p>

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<p>1 everyone was failing the test?</p> <p>2 A. No, I didn't say it that way.</p> <p>3 Q. Okay. Well, explain that, then.</p> <p>4 A. I'm saying that there are all those</p> <p>5 African-Americans that was in there, I don't feel</p> <p>6 like one of them passed it.</p> <p>7 Q. And what's that based on?</p> <p>8 A. Of all the names that I saw on the</p> <p>9 documents.</p> <p>10 Q. What documents?</p> <p>11 A. (Indicating documents.)</p> <p>12 Q. Are you talking about the lawsuit?</p> <p>13 A. Yes.</p> <p>14 Q. Are you saying that because of the number</p> <p>15 of people who were joined in the lawsuit, that's</p> <p>16 why you believe that none of those individuals who</p> <p>17 took the test with you passed the test?</p> <p>18 A. I'm saying that the day that me and Mr.</p> <p>19 Lewis took the test, there were several others in</p> <p>20 there who took the test. And on my opinion alone,</p> <p>21 me and Mr. Lewis didn't pass it. And I felt like</p> <p>22 that my opinion alone that they didn't pass it</p> <p>23 either.</p> <p>24 Q. Okay. It's not based on anything other</p>	<p>1 A. No.</p> <p>2 Q. I assume, then, that you do not know any</p> <p>3 of the qualifications of anyone who AK Steel has</p> <p>4 hired?</p> <p>5 A. No.</p> <p>6 Q. Have you ever seen a psychologist or a</p> <p>7 counselor or a therapist?</p> <p>8 A. When?</p> <p>9 Q. Ever?</p> <p>10 A. Ever? Yes.</p> <p>11 Q. When?</p> <p>12 A. During the time I got myself in trouble</p> <p>13 back in '90.</p> <p>14 Q. What did you see him for?</p> <p>15 A. To get my head back together; to get it</p> <p>16 to focus on my family and get it back into the</p> <p>17 place that it ought to be in and not where it was.</p> <p>18 Q. Now, when you say when you got yourself</p> <p>19 into trouble, that was when you touched your</p> <p>20 daughter --</p> <p>21 A. Yes.</p> <p>22 Q. (Continuing) -- inappropriately?</p> <p>23 A. Yes.</p> <p>24 Q. And you said that you touched her on the</p>
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<p>1 than your own speculation?</p> <p>2 A. Yes, my own speculation.</p> <p>3 Q. Okay. And do you know anything about the</p> <p>4 testing procedures for white applicants?</p> <p>5 A. I'm guessing that it's the same test.</p> <p>6 Q. Same procedure?</p> <p>7 A. Same procedure.</p> <p>8 Q. Okay.</p> <p>9 A. Same clock, same time.</p> <p>10 Q. Okay. Anything else that you believe</p> <p>11 supports your opinion that you were discriminated</p> <p>12 against because of your race?</p> <p>13 A. Well, I felt like that I was well</p> <p>14 qualified for the job that I was applying for.</p> <p>15 And because of the test, it knocked me out of the</p> <p>16 job that I -- I felt like that I could have</p> <p>17 gotten.</p> <p>18 Q. And I may have asked you this already,</p> <p>19 and I apologize if I did. But do you know of</p> <p>20 anyone that AK Steel has hired with a similar</p> <p>21 criminal background as you have?</p> <p>22 A. No, not offhand.</p> <p>23 Q. Okay. And do you know any white</p> <p>24 applicants who were hired?</p>	<p>1 behind?</p> <p>2 A. Yes.</p> <p>3 Q. And I'm assuming that's not in a</p> <p>4 punishment way but was that in a sexual way?</p> <p>5 A. Yes.</p> <p>6 Q. Have you ever taken any medication for</p> <p>7 your emotions or nerves?</p> <p>8 A. No. The only thing I've taken for my</p> <p>9 nerves is high blood pressure pills -- medicine,</p> <p>10 which I told you that in the beginning of this.</p> <p>11 Q. How long have you taken that?</p> <p>12 A. I've been taking it for three to -- six</p> <p>13 or seven years. I've been taking it for a good</p> <p>14 while.</p> <p>15 Q. Have we talked about everywhere that you</p> <p>16 have worked since 2001?</p> <p>17 A. Yes.</p> <p>18 Q. Have we talked about every place that</p> <p>19 you've applied to work since 2001?</p> <p>20 A. Yes.</p> <p>21 Q. And the AK Steel test is not the only</p> <p>22 test that you have failed, correct?</p> <p>23 A. The prison test. And I know why I didn't</p> <p>24 pass it.</p>

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<p>1 Q. Why didn't you pass that one?</p> <p>2 A. I didn't study properly for it.</p> <p>3 Q. Was that somehow discriminatory?</p> <p>4 A. No. I just didn't study properly for it.</p> <p>5 Q. Why didn't you?</p> <p>6 A. I was lazy.</p> <p>7 Q. How did you do in school?</p> <p>8 A. B, C, average.</p> <p>9 Q. What was your grade point average when</p> <p>10 you finished high school?</p> <p>11 A. C.</p> <p>12 Q. A C average?</p> <p>13 A. Yeah.</p> <p>14 Q. And that was Aiken?</p> <p>15 A. Yes.</p> <p>16 MS. PRYOR: Mark this as Exhibit 4.</p> <p>17 (Exhibit No. 4 was marked for</p> <p>18 identification and attached hereto.)</p> <p>19 Q. You've been handed what has been marked</p> <p>20 as Exhibit 4. Is this your 2006 W-2 from</p> <p>21 Haverhill North Coke Company?</p> <p>22 A. Yes.</p> <p>23 Q. I think you testified earlier of other</p> <p>24 W-2s and other tax returns and other payroll</p>	<p>1 Steel?</p> <p>2 A. Yes, but I don't talk to her about it.</p> <p>3 Q. Why not?</p> <p>4 A. Because there wasn't nothing to talk</p> <p>5 about. I didn't get the job and she knew that I</p> <p>6 didn't pass the test, so there wasn't nothing to</p> <p>7 talk about.</p> <p>8 Q. Does she know that you filed a lawsuit?</p> <p>9 A. She does now but --</p> <p>10 MS. DONAHUE: There's a spousal</p> <p>11 privilege, and you don't have to reveal</p> <p>12 anything that you discussed with your</p> <p>13 spouse. I mean, she can ask you, you</p> <p>14 know, if you discussed it but you don't</p> <p>15 have to reveal anything that you</p> <p>16 discussed with your spouse.</p> <p>17 A. She knows about it, yes.</p> <p>18 Q. Okay.</p> <p>19 A. But we don't talk about it.</p> <p>20 Q. You don't talk about it? Have you talked</p> <p>21 to anyone else about the lawsuit?</p> <p>22 A. No.</p> <p>23 Q. Do you have any documents or</p> <p>24 communications between you and AK Steel?</p>
Page 95	Page 97
<p>1 stubs, correct?</p> <p>2 A. Yes.</p> <p>3 Q. Do you ever keep notes or a diary?</p> <p>4 A. No.</p> <p>5 Q. Do you have any notes or documents</p> <p>6 relating to AK Steel?</p> <p>7 A. No.</p> <p>8 Q. Do you have any witnesses or individuals</p> <p>9 who would support any of your claims here?</p> <p>10 A. No.</p> <p>11 Q. Anyone who we haven't talked about who</p> <p>12 knows about your application at AK Steel?</p> <p>13 A. No.</p> <p>14 Q. Anyone who knows why you were not hired?</p> <p>15 A. No.</p> <p>16 Q. Anyone else with any knowledge about your</p> <p>17 claim?</p> <p>18 A. No.</p> <p>19 Q. Have you talked to anyone about your</p> <p>20 application at AK Steel?</p> <p>21 A. No.</p> <p>22 Q. Did you talk to your wife about it?</p> <p>23 A. No.</p> <p>24 Q. Did she know that you applied at AK</p>	<p>1 A. No.</p> <p>2 Q. Do you have E-mail?</p> <p>3 A. Do I have E-mail?</p> <p>4 Q. Uh-huh.</p> <p>5 A. No, not really.</p> <p>6 Q. What does "not really" mean? Either you</p> <p>7 have it or you don't.</p> <p>8 A. I had it but it's only based on sports.</p> <p>9 Q. What does that mean?</p> <p>10 A. I E-mail for like football, the Bengals.</p> <p>11 That's the only E-mail I have. I don't E-mail</p> <p>12 anybody else like for friends or church or</p> <p>13 anything like that. I don't have that type of</p> <p>14 E-mail. Is that what you're asking me?</p> <p>15 Q. I think so. That's fine.</p> <p>16 Have you ever talked to any of the plaintiffs</p> <p>17 outside the presence of counsel?</p> <p>18 A. No.</p> <p>19 Q. Have you ever had any written</p> <p>20 discussions, E-mails, letters, between plaintiffs</p> <p>21 or Mr. Cosby outside the presence of counsel?</p> <p>22 A. No.</p> <p>23 Q. Do you know anything about any of the</p> <p>24 claims of any of the other plaintiffs?</p>

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<p>1 A. No.</p> <p>2 Q. I think you've already told me, you and</p> <p>3 Dwight Lewis never talked about failing the test?</p> <p>4 A. No. We just -- he just said that he</p> <p>5 didn't pass it, and that was it.</p> <p>6 Q. Do you understand that you have waived</p> <p>7 your right to compensatory and punitive damages in</p> <p>8 this case?</p> <p>9 MS. DONAHUE: I'm going to object</p> <p>10 to the form of the question. It calls</p> <p>11 for a legal conclusion.</p> <p>12 A. Yes.</p> <p>13 Q. Did you understand that?</p> <p>14 A. Yes.</p> <p>15 MS. DONAHUE: Did he answer the</p> <p>16 question?</p> <p>17 MS. PRYOR: I think he did.</p> <p>18 He said he understands that he has</p> <p>19 waived his right to compensatory and</p> <p>20 punitive damages. Right?</p> <p>21 MS. DONAHUE: I'm not sure --</p> <p>22 THE WITNESS: (Interposing)</p> <p>23 Explain that to me. And make it clear.</p> <p>24 Q. Sure. There has been some filings filed</p>	<p>1 when you were at that job fair?</p> <p>2 A. Well, if they did, he never told me.</p> <p>3 Q. Okay. Were you not right together where</p> <p>4 you would hear everything that was said to Dwight</p> <p>5 Lewis?</p> <p>6 A. Say that again.</p> <p>7 Q. Yes. You said that if someone said</p> <p>8 something to Dwight Lewis, Dwight hasn't told you</p> <p>9 about it.</p> <p>10 A. Yes.</p> <p>11 Q. What I'm asking is, were you not</p> <p>12 positioned right next to him where you would hear</p> <p>13 whatever was being said to Dwight Lewis?</p> <p>14 A. I was right next to him. And at the</p> <p>15 time, his mind was focused on taking the exam.</p> <p>16 Q. I'm not talking about the exam; I'm</p> <p>17 talking about the job fair, when you went and</p> <p>18 talked to Mr. Cosby.</p> <p>19 A. No, not that I know of. No one that I</p> <p>20 know of talked to him.</p> <p>21 Q. Okay. Did anyone say anything about his</p> <p>22 resume?</p> <p>23 A. Not that I know of.</p> <p>24 Q. Did anyone tell him to come and take the</p>
Page 99	Page 101
<p>1 with the court that said that plaintiffs,</p> <p>2 including you, have agreed that you're not seeking</p> <p>3 compensatory and punitive damages. Is that</p> <p>4 correct?</p> <p>5 A. No.</p> <p>6 Q. No, that's not correct?</p> <p>7 MS. DONAHUE: If you don't know,</p> <p>8 you don't know.</p> <p>9 A. I don't know.</p> <p>10 Q. You don't know?</p> <p>11 A. No.</p> <p>12 Q. Okay. That's the first you've heard</p> <p>13 about it?</p> <p>14 A. Yes, that's the first I've heard about</p> <p>15 it.</p> <p>16 Q. On the interrogatories, which was Exhibit</p> <p>17 1, in front of you, you list Dwight Lewis as a</p> <p>18 witness?</p> <p>19 A. Yeah.</p> <p>20 Q. Why do you list him as a witness?</p> <p>21 A. Because he was there with me and he knows</p> <p>22 what was taking place at the time we were taking</p> <p>23 the exam.</p> <p>24 Q. Did anyone say anything to Dwight Lewis</p>	<p>1 test?</p> <p>2 A. The same woman that told me told him that</p> <p>3 she was going to schedule it for him to take an</p> <p>4 exam. And she scheduled us on the same day.</p> <p>5 Q. Was this a minority job fair?</p> <p>6 A. It was for everybody.</p> <p>7 Q. And was it just an AK Steel job fair or</p> <p>8 were there other job fairs there?</p> <p>9 A. There were other job fairs there.</p> <p>10 Q. And the only way you heard about it was</p> <p>11 from Dwight Lewis' --</p> <p>12 A. (Interposing) Grandmother at church.</p> <p>13 Q. And at the day of the exam, do you know</p> <p>14 whether anyone said anything to Dwight Lewis at</p> <p>15 that time?</p> <p>16 A. No.</p> <p>17 Q. After the exam, did you and Dwight talk</p> <p>18 about the exam, "That was easy. That was hard. I</p> <p>19 didn't like it"?</p> <p>20 MS. DONAHUE: Object to the form.</p> <p>21 Asked and answered about three times</p> <p>22 already. Go ahead.</p> <p>23 A. No. We just kind of just talked about</p> <p>24 other things. We didn't mention nothing about the</p>

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1 test at all.

2 Q. Okay. What did you talk about?

3 A. Sports, what's going on in church, just
4 that's pretty much it.

5 Q. Okay. Do you know how long the test
6 took? A couple of hours, ten minutes?

7 A. I really couldn't say. All I know is
8 that I was there and taking it, so I couldn't tell
9 you how long it took.

10 MS. PRYOR: Okay. I think I have
11 nothing further at this time, but I
12 still want the other documents.

13 MS. DONAHUE: Okay. Let's
14 take a little break and see if we have
15 anything.

16 (A short recess was taken.)

17 MS. DONAHUE: We have no
18 questions.

19 (The deposition of Timothy
20 Oliphant was concluded at 3:17 p.m.)

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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF OHIO
3 FOR THE WESTERN DIVISION
4

5 VIVIAN BERT, et al.,

6 PLAINTIFFS,

7 Case No. 1:02CV00467
8 VS: Judge Beckwith

9 AK STEEL CORPORATION,

10 DEFENDANT.
11

12 CERTIFICATION OF THE COURT REPORTER

13 I, Conalee Williamson, Stenotype Reporter
14 and Notary Public within and for the Commonwealth
15 of Kentucky, do hereby certify that the foregoing
16 one hundred two (102) pages is a true and correct
17 transcript of the proceedings had in this matter,
18 as hereinabove set forth, and that I have no
19 interest of any nature whatsoever in the ultimate
20 disposition of this litigation.

21

22

23

24

Conalee Williamson
Stenotype Reporter/Notary Public